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STUDIES IN POLITICAL SCIENCE

THE CHARTERS
OF THE
CITY OF CHICAGO

BY
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PART I
THE EARLY CHARTERS
1833–1837

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CHAPTER I.

Introduction to the Early Charters of Chicago.

An adequate account of the founding and growth of cities in the territory northwest of the Ohio river would be a most interesting chapter in the history of each of the five great states which have been carved out of this district. The material for such an account lies at present scattered through statute books, legislative reports, local histories, town and city records, pamphlets, newspapers, recollections of old citizens, etc., in such a way as to make it difficult for one to ascertain its whereabouts, to say nothing of utilizing it as would be necessary in order to prepare a history of this movement at once accurate and comprehensive. Much work will have to be done in detail by many different individuals, each working over the materials of his own locality, before it will be possible for anyone to present a satisfactory view of the movement as a whole.

The present pamphlet contains the texts of certain documents of importance, the legislative charters, relating to the history of one of these great city units—up to the present time, the greatest of them all. These documents are of special significance in the case of Chicago, since, taken together, they form a fairly adequate means of writing, from one point of view at any rate, the history of the city. One can trace in the charters themselves the development of city government in Chicago perhaps more completely than in the case of almost any other of the great cities in this region. Chicago began its career as a council-ruled and council-organized city; that is, the entire power of the corporation both for organization and administration was practically vested in the council. The mayor and other officials were, so to speak, mere agents of the council, subject in nearly all respects to its orders and ordinances. Even

at the present time, the council of the city of Chicago has more authority than the council of any other of our great American cities. Although the mayor has become to a large extent an independent authority, with a certain sphere of action quite beyond the control of the council, still the latter body can direct his action more immediately in many regards than is the case in New York or Philadelphia. The process of development from a council-governed city to one in which a large degree of independent action is assigned to the mayor and other executive departments is reflected in the charters themselves in such a way as to make the study of these of peculiar value to anyone interested in the evolution of municipal government.

The present pamphlet contains (1) the general law for the incorporation of towns, passed by the legislature of Illinois February 12, going into effect March 1, 1831, under which Chicago was first organized as an incorporated town August 12, 1833; (2) the first special legislative act incorporating the town (extending the powers conferred upon it by the general act), dated February 11, 1835; (3) the second special legislative act or charter incorporating the city of Chicago, bearing date of March 4, 1837; (4) two or three special acts amending the general or special acts concerning town or city powers.

Many changes were made in the act of 1837 during the next ten or fifteen years, but it was not very radically altered until after 1850, so that it fairly represents the system under which the youthful city was governed during this early period.

As an introduction to the study of the charters, a glance at the development of municipal government in the Northwest may be of interest.

Although permanent settlements had been effected by the whites at various points in the district afterwards known as the Northwest Territory, nearly or quite one hundred years before the citizens of the United States located and settled the town of Marietta in 1788, yet there is no indication that any of these settlements had acquired the dignity or importance of incorporated municipalities. This is to be explained, first of all, by

the fact that the settlements never became populous enough to demand such recognition. They were, generally speaking, mere forts, with a scattered farming or hunting population growing up about them, which, so far from civilizing the Indian population, was rather tending to become Indian itself in character and habit. France, moreover, to whom this territory belonged in the early part of the period, did not in her colonial policy favor the development of that independent spirit which is more or less the accompaniment of municipal autonomy. Her colonies were distinctly colonies of the mother country, existing for the benefit of the latter, and no tendency was permitted to develop which might threaten this relationship. The territory which was ceded to England by the treaty of Paris in 1763 was in her possession for too short a period prior to the Revolution to enable her to develop any municipal policy in connection with it; while the utterly disorganized condition of things after the Revolution down to the passage of the ordinance of 1787, so far from favoring the development of independent municipalities, threatened to put an end even to the settlements themselves.

With the permanent organization of civil government in 1788 a new era began. The settlement of Marietta, Columbia, Cincinnati, Dayton, and other places within the present state of Ohio, all within three or four years after the passage of the ordinance of 1787, testified to the attractive power of this new region to the inhabitants of the eastern states. But even so, no charters of incorporation were granted to these new villages and towns during the few remaining years of the eighteenth century. In the first place, probably because the towns themselves were still too small, and the functions of their government still too few to make it worth while to organize the machinery of village or city government. This, all the more because the system of county and township government, adopted from the beginning, made any other form of local government unnecessary for the time being.

There was probably still another reason. The Northwest

Territory had at first no representative legislative assembly in the strict sense of that term. The governor and judges were constituted a legislative board, with authority to select such laws from the codes of the older states as they might deem suitable for the new territory. It is evident that such a scheme contemplated, primarily at any rate, the adoption of general as distinct from local laws. These officials, moreover, got into a conflict almost immediately as to the scope of their powers, the effect of which was to discourage any exercise of authority not clearly conferred, which of itself would probably have acted as a bar to the granting of local charters. It was, moreover, expected that a representative assembly would soon be organized, and that the territory, or at least the eastern portion of it, would soon be admitted as a state, and there was consequently an inclination to defer everything possible to that period.

But even after the territorial assembly was constituted, in 1798, no charter of incorporation was granted until after the territory had been divided and Indiana set off as a separate territory. This took place July 4, 1800, under the act of May 7, 1800, and at the meeting of the next legislature, in the autumn of 1800 the policy of incorporating towns and cities was begun.

The town of Marietta was incorporated by an act of the territorial legislature of December 2, 1800. By a similar act, dated December 6, of the same year, the town of Athens was confirmed and established. In the month of January, 1802, three towns were incorporated, two of which were destined to become great cities. These were the towns of Cincinnati, January 1; the town of Chillicothe, January 4, and the town of Detroit, January 8. From this time on the incorporation of towns proceeded apace.

The Board of Governor and Judges in the Indiana territory, to which, following the precedent set in the Northwest Territory, was intrusted the legislative power, evidently took the same view of the subject of incorporation as their predecessors in the Northwest Territory, for they granted no charters of incorporation. But at the first session of the first general assem-

bly of the Indiana territory, begun July 29, 1805, a charter was granted to the borough of Vincennes by an act of August 24, 1805; and by an act of a few days later the town of Kaskaskia on the Mississippi river was also granted the right to select a board of trustees.

The territory of Michigan, which was set off from Indiana January 11, 1805, preserved the simple legislative organization under which the Board of Governor and Judges made the laws for a longer period than either Ohio, Indiana, or Illinois. It was perhaps natural, therefore, that the Board of Governor and Judges found itself compelled to legislate upon the subject of village government within the boundaries subject to its jurisdiction. We find two early acts passed September 13, 1806, by this board, one of which determined the boundaries of the town of Detroit, the second of which declared the town of Detroit to be a city. This was the first act in which this term was used of a western settlement. On October 24, 1815, the original act of 1802 incorporating the town of Detroit was revived. During the period from 1806 to 1815, the mayor of Detroit seems to have been appointed by the governor, but from 1815 to 1824, when another general act was passed, there seems to have been no officer called mayor. The town was ruled by a board of five trustees, who chose their own chairman.

The territory of Illinois, organized by the act of February 3, 1809, seems likewise to have had no occasion to incorporate any towns during the rule of the governor and judges, from March 1, 1809, when their authority began, to November 25, 1812, when the first assembly met. The first assembly seems to have taken no steps in regard to the matter, and the earliest law relating to the incorporation of a town within the present limits of the state of Illinois passed by the Illinois legislative authorities was one incorporating Shawneetown. The act was dated December 8, 1814. It appointed five trustees, to serve until their successors could be elected. They were authorized to levy a tax upon the value of the land, without considering the value of houses and other improvements. This tax might not

exceed 2 per cent. on the valuation. The proceeds were to be used for surveying the town, paying the expenses of its officers, cleaning and keeping in repair the streets, and such other improvements as might be deemed expedient and necessary by the board of trustees. The latter were authorized to make such by-laws, rules, and ordinances for the good regulation of the said town as should to them seem meet, if not inconsistent with the laws of the territory or the ordinance. It was made their duty to establish a public burying ground.

On the 15th of the same month, the town of Kaskaskia was permitted to elect commissioners to lay out the town and establish a plat, from which action it would seem that the trustees whom the town had been authorized to elect under the act of 1805 had not performed this particular duty.

On December 19, 1814, the first general act was passed in Illinois for the establishment of towns. It had to do, however, rather with the condition under which persons might found and lay out towns than with the powers of the town authorities after they were once constituted. Among the last acts passed by the territorial legislature was one dated January 6, 1818, incorporating the town of Kaskaskia, giving to it essentially the same authority as had been given to the village of Shawneetown. At the same session of the legislature, January 9, 1818, a charter of incorporation was granted to the city and bank of Cairo. This act is an illustration of the policy which was to become a favorite one with the legislature of the state of Illinois, as it had been with other western states, that of incorporating an institution of some kind and a town at the same time. Thus many charters were granted providing for the incorporation of an academy, whose trustees were to serve also as town trustees until the election of their successors. There was evidently a growing belief in the necessity of towns in the country, and a willingness on the part of the legislature to grant charters to anybody who would agree to lay out and develop them. Finally, February 12, 1831, a general act was passed, to go into effect March 1, of the same year, under which the inhabitants of any

district might organize and receive the rights of an incorporated village in accordance with the provisions of the law. It was under this law that the town of Chicago was first incorporated.

The original town of Chicago was laid out as an incident to the building of a canal from the Illinois river to lake Michigan, although the importance of the present site of the city had received official recognition a generation earlier in the treaty of Greenville. By this treaty, made August 3, 1795, between the federal government and the Indians, a tract six miles square at the mouth of the Chicago river was ceded to the federal government. No use was made of this cession, however, until 1803, when the United States ordered the construction of a fort at the mouth of the river. This fort, erected in 1803–4, was called Fort Dearborn. A small settlement grew up about it, consisting of fur traders and dependents of the fort. In spite of what were in many respects unfavorable surroundings, it being at the best a mere outpost in the midst of an unbroken Indian territory, it seemed to be in a fair way to grow steadily. The outbreak of the war of 1812, however, forced the government to order the evacuation of the fort. The threatening attitude of the Indians led the entire population of the settlement to follow the garrison. Shortly after they left the fort, they were attacked by the Indians, August 16, 1812, and many of the party massacred, and for four years the region remained uninhabited. At the close of the war an additional cession of land in this region was made by the Indians to the United States in the treaty of St. Louis, concluded August 24, 1816. The tract then ceded was about twenty miles wide, and extended from lake Michigan to the Kankakee and Fox rivers. It was bounded on the south by a straight line beginning on the shore of lake Michigan, ten miles south of the mouth of the Chicago river, and running to a point on the Kankakee ten miles above its mouth. The northern boundary line began at a point on the lake shore ten miles north of the mouth of the Chicago river, and extended, with a set-off or two, parallel with the south line, until it reached a point on the Fox river ten miles above its

mouth. The city has now grown up to and even beyond these Indian boundary lines for a part of their course.

Fort Dearborn was immediately rebuilt, and a settlement began to grow up again around its wooden walls. The Indian boundary lines mentioned above were run in 1818 by the federal surveyor, and thus a large tract was secured for white settlement in the midst of what was an otherwise wild Indian country.

The admission of Illinois to the Union, with a boundary line far to the north of the lower end of the lake, instead of one running due west from its southernmost point, as had been proposed at first, revived the question of a canal to connect the waters of the Mississippi with those of the great lakes through the Illinois and Desplaines rivers. The route from the great lakes to the Mississippi, through the Chicago river to the Desplaines, had long been known. It involved only a very short portage even in dry times, and during the wet period of the spring and autumn it was quite possible to go by canoe all the way from Niagara Falls to the Gulf of Mexico. Here was evidently the place for a canal. It was so plain, and the desirability of opening this route had suggested itself to so many different people, that it is difficult to tell who proposed it first, unless the statement that Joliet proposed it in 1673 be true. It did not become, however, a serious matter for discussion until the title to the lands along the proposed route passed from the possession of the Indians to that of the United States government in 1816. From this time on the agitation of the subject did not cease, although it was more than thirty years before the canal was actually finished.

A formal report on this subject was made by Major Stephen H. Long March 4, 1817, and communicated to the house of representatives by the war department, December 28, 1819.[1] As early as March 30, 1822, Congress passed an act permitting the state of Illinois to cut a canal through the district obtained rom the Indians in 1816, from the mouth of the Fox river to

[1] *American State Papers*, Miscell., Vol. XXI, p. 556.

lake Michigan, granting to the state a tract ninety feet wide on each side of the canal. It also appropriated the sum of $10,000 for preliminary surveys. February 14, 1823, the state of Illinois appointed a commission to survey the route of the canal. In the autumn of 1823, and again in 1824, exploring trips were made through this region, and the commissioners made a report in January, 1825. On the 17th of the same month the legislature passed an act incorporating a canal company. It proved impossible, however, to float the company within the next year, and the act was repealed at the next session of the legislature in 1826. The same legislature memorialized Congress, asking for a large grant of land to assist in constructing the canal, the idea being that the building of a canal would increase the value of the land lying along the route to such an extent as to enable the state to pay the entire cost of constructing it by the proceeds of the sale of such lands. It was a favorite idea with the legislatures of that date in the Mississippi valley that public improvements could be paid for in this way out of the value conferred upon the adjacent lands, an idea which was destined to bitter disillusionment at more points than one.

In answer to the petition of 1826, Congress passed an act March 2, 1827, granting a tract of land equal to one-half of five sections in width, on each side of the proposed route, each alternate section being reserved by the government. This grant included about 284,000 acres, an amount amply equal to defraying the expenses of the canal, if the anticipations of its promoters as to the rise in price of the lands should be justified, and their estimate of its cost as below $700,000 should prove true.

Finally, on January 22, 1829, another act was passed providing for the appointment of three commissioners who, in addition to the usual powers, were authorized to lay out towns along the proposed route. It was natural that towns should first be laid out at the proposed termini. Accordingly the town of Ottawa was laid out at the southern end, and Chicago was laid out at the upper end, being located around the forks of the river. The plat of the town of Chicago filed with the county commis-

sioners of Peoria county is dated August 4, 1830, and this may, therefore, be taken as the official date of the founding of Chicago.

Various obstacles arose to the building of the canal, and it was more than eighteen years after the laying out of Chicago before the first boat passed through the locks from the Illinois river to lake Michigan. The town of Chicago, however, had at any rate been located, and from this time on its future was assured, although it was destined to experience many vicissitudes.

The canal commissioners laid out the whole town on section 9, in township 39 north, range 14 east of the third principal meridian. This section includes all the land about the forks of the Chicago river, and the original plat contained the territory now bounded by State, Madison, Desplaines, and Kinzie streets. It is interesting to note that the commissioner of the general land office of the United States had proposed to Congress on March 22, 1830, that the federal government should lay off a town at the mouth of the river, on fractional section 10, which included the land lying east of State, north of Madison, south of Kinzie, up to the lake shore, *i. e.*, practically the military reservation. The commissioner argued that it would be easy for the state to extend the town to the west by laying off an addition on section 9, which was one of the canal sections. It was thus, perhaps, a mere accident that Chicago was not founded by the federal government instead of by the state canal commissioners.

An event happened soon after this which called attention to Chicago, and gave a decided impetus to its growth. Cook county was organized January 15, 1831, and its county seat was fixed at the town of Chicago as laid out by the canal commissioners. Thus it received the official recognition, a matter of no mean importance in those days, of being made the seat of government for the whole northeastern portion of the state, for Cook county included at the time of its organization all the shore line of lake Michigan within the bounds of the state,

embracing nearly all of the present Cook, Will, Henry, and Lake counties.

But even with this great advantage, the future of the little town was not assured, except to those who walked by faith instead of by sight. It was surrounded by Indian lands on the south, north, and west, and it looked as if some years might elapse before the Indians could be persuaded to cede their lands and remove to the west; while it was plain that Chicago had a future of little promise until this could be effected. Just at this time an event occurred which seemed for a while likely to give a decided setback to the growth of the town, but which soon proved to be a source of the greatest benefit. Black Hawk, an Indian chief, who had been removed with his tribe beyond the Mississippi, decided to try to regain possession of his lands in the present northern Illinois and southern Wisconsin by force. He recrossed the Mississippi early in the spring of 1832 and terrorized the whole northern portion of Illinois until August of the same year, when he suffered a serious defeat. The terror of an Indian war drove all the settlers from the outlying country into Chicago, and many left the region never to return. But, on the other hand, many persons came to Chicago from different portions of the west to take part in the military movements against Black Hawk. They became acquainted with the character of the country, became enthusiastic about its future, and as soon as the Indian war was closed, and the Indians removed beyond the Mississippi, all fear of future conflicts being over, they and their friends stood ready by the hundreds to take up the lands thus vacated by the Indians. It now became plain, moreover, that it would not be long until the Indians in the neighborhood of Chicago itself would have to cede their lands also, and in view of the evident line of development settlements in and about Chicago began to go on more rapidly than before. A long series of negotiations was carried on with the Indians, which resulted in the final extinguishment of Indian titles, September 26, 1833, and the throwing open of all the lands in and about Chicago to white settlement, thus opening the

way for the marvelous growth of the city and surrounding region.

In anticipation of the final departure of the Indians and the consequent rapid growth of the town, the inhabitants decided in the summer of 1833 that the village should be incorporated so as to take care properly of its growing interests. Following the provisions of the act of 1831 before referred to, a mass meeting of the citizens was called, probably in the latter part of July, or early in August, at which the question of the advisability of incorporation was put to popular vote. Only thirteen voters appeared, and one of them was not really an inhabitant of the town proper. Twelve votes were cast in favor of incorporation, and one against, the latter being cast by the non-resident. In accordance with this vote, a call, dated August 5, 1833, was issued by the clerk of this meeting for an election of town trustees, to be held on the 10th of August. At this date twenty-eight voters appeared, and five trustees were elected, who met for organization August 12, and decided to meet regularly the first Wednesday in each month. Thus the town of Chicago dates its legal existence from August 12, 1833.

Still another important event had occurred a little before the calling of this mass meeting, which was destined to be of infinite importance to the future of the town. On July 1, 1833, federal officials began the work of making the harbor, for which Congress had appropriated $25,000 by an act of March 2, of the same year. Up to this time the entrance to the river, which was much to the south of the present entrance, being indeed at the foot of the present Madison street, was so shallow that under ordinary circumstances only canoes and other light craft could get into the river at all. It was now proposed to cut an entrance from the main channel directly to the east through the neck of land which at that time, lying across the mouth of the river, deflected it to the south. By barring the channel to the south it was thought possible to force the water directly out to the eastward, and thus cut a deep channel by force of the current itself. The erection of two piers, one on the north side and one

on the south side of the proposed channel, was the beginning of the magnificent harbor which has since been made. With the federal government at work on the harbor, the state planning a canal, and the Indian titles to the surrounding lands extinguished, Chicago entered upon its existence as an incorporated town in the autumn of 1833.

The estimates of the population of the town at the time of its incorporation are very various, and probably all are more or less untrustworthy. It is a question whether there were the 150 inhabitants necessary for town incorporation under the law of February 12, 1831 (in effect March 1, 1831), within the area included in the the first town limits, although it is estimated that there was a population of about 350 in and immediately about this area. A town census taken in 1835 showed a population of 3,265, and the first census of the city, taken July 1, 1837, showed a total population of 4,170. The area of the city at the time of the census of 1837 was very much larger than the area of the town as first incorporated under the general act of 1831, so that the actual increase in the density of the population was probably far less than the figures above quoted would seem to show, but, at any rate, all the evidence at hand favors the view that the population was increasing during the years 1833–36 at a phenomenal rate. The year 1834 saw such a decided addition to the population of the settlement, and the prospects for a still further increase were so good, that the inhabitants felt the need of extending the powers of the town trustees to enable them to cope with the growing complexity of town problems. They accordingly applied to the legislature for an extension of powers, and an act was passed February 11, 1835, which increased the number of the trustees, enlarged their functions, and raised the area from about three-eighths of a square mile to two and two-fifths square miles. The enlarged boundaries were Chicago avenue, Halsted street, Twelfth street, and the lake, excepting the land about Fort Dearborn, which was still a military reservation. It will be seen by an examination of the text of this act that the special needs of the town of Chicago were recognized

much more fully than would have been possible under any general law. The various provisions of the charter revealed the difficult points in Chicago's government, such as the treatment of the wharfing privileges, and the peculiarities of its topography, as shown by the recognition of the three districts into which the growing community was already divided.

But the act of February 11, 1835, had hardly passed into good working order until the pressure of population and the anticipations of the future again called attention to the need of a new and more liberal charter. This time, however, the inhabitants began to talk of a city charter, and the belief in the future of the town was so strong as to command practically unanimous sentiment in favor of a considerable enlargement of municipal powers and functions. One of the newspapers suggested that Chicago could not afford to wait until it could work out an ideal charter. It must begin with the best one it could draft on short notice, and, like its counterparts on the seaboard, alter the provisions of the charter as experience might dictate, until it obtained one thoroughly suited to its needs. The city evidently took this doctrine to heart, for it has been laboring at this task ever since.

On November 18, 1836, the town trustees ordered that the president of the board should invite the citizens of the three districts of the town to meet in their respective districts and select three suitable persons to meet with the board of trustees on November 24, and consult on the expediency of applying to the legislature of the state for a city charter, and adopt a draft to accompany such application. Meetings were held, and such a delegation selected in each district. The result of the union conference was the appointment of a committee, consisting of two members of the board and one citizen from each of the divisions of the city, to draft a charter. A charter was prepared by this committee, and submitted to the people at a mass meeting for approval, Monday, January 23, 1837, at the Saloon building. After some slight alterations, the charter was approved and sent to the legislature, where, after certain amendments, it

was enacted into law on March 4, 1837. The first city election was held on May 2, from which time may be dated the existence of Chicago as a city.

The first city charter is of interest from many points of view. It was, in the first place, drafted by the city itself and proposed to the legislature as the sort of charter which the city desired, involving thus a practical recognition of local self-government on a large scale. It remained without any essential change for more than ten years, and without any very radical change until into the fifties. It was, in a certain sense, a mere expansion of the old town charter, though, from another point of view, it was quite different in many of its fundamental provisions. It would hardly have been possible to develop a government under the town charter equal to the demands of the growing community, while under the latter, adequate powers were conferred to start the young city on its remarkable career of expansion. The area of the municipality under this charter was increased from three-eighths of a square mile at date of original incorporation, and from the two and two-fifths square miles under the act of 1835, to more than ten square miles. The boundaries of the city were the present North avenue, Wood street, Twenty-second street, and the lake, excepting the same military reservation about Fort Dearborn, which was bounded by State, Madison, the lake and the river. They also included a small tract on the lake-shore just north of North avenue, used as a cemetery by the city.

Under the city charter all corporate power was vested in the council, consisting of the mayor and aldermen. The mayor was, however, little more than a figure head. He was presiding officer of the council, but had no veto, and not even a vote, unless there was a tie. Nearly all the officials of the city were appointed by the council and made subject to its immediate direction. The council not only organized the various city departments under its ordinances, but it governed the city through these departments as its own immediate agents. It formed an absolute contrast to the present government of the

city of New York, for example, in which the council has been relegated to a very subordinate position, while the various administrative departments have been largely made independent of its control. A careful study of the texts of these early charters will be worth the while of any student of municipal government.

CHAPTER II.

First Charter of the Town of Chicago.

[General law for the incorporation of towns, under which the town of Chicago was first incorporated. Passed February 12, 1831, and in force March 1, of the same year.[1] Date of actual organization of the town, August 12, 1833.]

Section 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That whenever the white males over the age of twenty-one years, being residents of any town in this state, containing not less than 150 inhabitants, shall wish to become incorporated for the better regulation of their internal police, it shall be lawful for the said residents, who may have resided six months therein, or who shall be the owner of any freehold property therein, to assemble themselves together, in public meeting, at the courthouse or other place in said town, and when so assembled, they may proceed to choose a president and clerk of the meeting from among their number, both of whom shall be sworn, or affirmed, by any person authorized to administer oaths, faithfully to discharge the trust reposed in them as president and clerk of said meeting; provided, however, that at least ten days' public notice of the time and place of holding such meeting, shall have been previously given by advertising in some newspaper of the town, or by setting up written notices, in at least three of the most public places in such town.

Sec. 2. The residents, as aforesaid, of any town having assembled as directed in the first section of this act, may proceed to decide by vote, *viva voce*, whether they will be incorporated or not, and the president and clerk, after their votes are given in, shall certify under their hands, the number of votes, in

[1] *Cf. Laws of Illinois*, Vandalia, 1831, p. 82 and ff.

favor of being incorporated, and the number against being incorporated; and if it shall appear that two-thirds of the votes present are in favor of being incorporated, the president and clerk shall deliver a certificate of the state of the polls to the board of trustees, to be elected as hereinafter provided.

SEC. 3. Whenever the qualified voters, under this act, of any town, shall have decided in the manner herein provided, that they wish to be incorporated, it shall be the duty of the clerk of the meeting, at which they may so decide, to give at least five days' previous public notice to the said voters, to assemble at the courthouse, or some other public place in such town, on a day to be named in such notice, to elect by *viva voce* vote, five residents and freeholders of such town, for trustees of the same, who shall hold their office for one year, and until other trustees are chosen and qualified; at which first election, the president and clerk of the first meeting shall preside, or in case of the absence of either of them, some suitable person shall be appointed by the electors present to fill such vacancy or vacancies. And at every succeeding election for president and trustees, the preceding board of trustees shall direct the manner in which the same shall be conducted.

SEC. 4. The board of trustees of any town elected agreeably to the provisions of this act, shall choose a president out of their own body, and the president and trustees aforesaid, and their successors in office, shall thenceforth be considered in law and equity, a body corporate and politic, by the name and style of "the president and trustees of the town of ——," and by such name and style shall be forever able and capable in law and equity to sue and be sued, to plead and be impleaded, to answer and be answered unto, defend and be defended in all manner of suits, actions, plaints, pleas, causes, matters, and demands, of whatever kind or nature they may be, in as full and effectual a manner, as any person or persons, bodies corporate, or politic can, or may do, and may have a common seal, and may alter the same at pleasure. The said president and trustees shall require their clerk to keep a fair journal and record of all their proceed-

ings, and record all by-laws and ordinances which they may make, in a book to be provided for that purpose.

SEC. 5. The president and trustees, or a majority of them, of any town incorporated as herein directed, shall have power to make, ordain, and establish and execute such ordinances in writing, not inconsistent with the laws, or the constitution of this state, as they shall deem necessary to prevent and remove nuisances, to restrain and prohibit gambling, or other disorderly conduct, and to prevent the running of, and indecent exhibitions of horses, within the bounds of such town; to provide for licensing public shows; to regulate and establish markets; to sink and keep in repair public wells; to keep open and in repair the streets and alleys of such town, by making pavements, or sidewalks, as to them may seem needful: *provident always* that the lot in front of which any sidewalk is made, shall be taxed to pay at least one-half of the expenses of making such sidewalk. The said president and trustees shall also have power to provide such means as they may deem necessary to protect such town from injuries by fires. And for the purpose of carrying the aforesaid powers into effect, the said president and trustees shall have power to define the boundaries of such town; provided, that the same shall not exceed one mile square, and to levy and collect annually a tax, on all the real estate in such town, not exceeding fifty cents on every hundred dollars, of assessment valuation thereof.

SEC. 6. It shall be the duty of the said president and trustees, to cause all the streets and alleys of such town, and all the public roads passing from and through such town, for one mile from the center thereof, to be kept in good repair; and to this end, they are authorized to require every male resident of such town, over the age of twenty-one years, to labor in said streets, alleys and roads, at least three days in each and every year; and if such labor shall be insufficient, to appropriate so much of the tax levied on real estate, as may be necessary to keep the said streets, alleys and roads in repair; and also to appoint and prescribe the duty of all such officers, for such town, as they

may deem necessary to carry into effect the foregoing powers; the collectors of the corporation tax, and the treasurer, shall severally give bond, made payable to the president and trustees, and their successors in office, with good and sufficient securities, in such sum as may by said president and trustees be deemed advisable. And a clause shall be inserted, that if at any time additional security be required, the same shall be given: the conditions of which bonds shall be that the officer shall faithfully perform the duties of his office; and said officers shall remain in office one year (unless soon removed), and until others shall be appointed, and shall have given bonds.

Sec. 7. The said president and trustees, elected under this act, shall continue in office for one year, and until their successors shall be elected and qualified. And it shall be their duty, before their time expires, to give at least ten days' public notice to the qualified voters under this act, to meet at such place as they may name, in such town, and elect a new board of president and trustees, for such town; and all vacancies, which may happen in said board by resignation or otherwise, before their term of office expires, shall be filled by the other members of the board. The proceedings of said board shall always be public; and all their ordinances, before taking effect, shall be published for at least ten days, in a newspaper of such town, or by setting up copies of the same in three of the most public places of such town. A majority of said board shall constitute a quorum.

Sec. 8. All moneys arising from the collection of taxes, fines, penalties, and forfeitures, shall be appropriated by said president and trustees towards the erecting, improving, and regulating those objects which, by this act, are placed under their control and jurisdiction, and to none others. And it shall be their duty to have an account current of the fiscal concerns of the corporation so kept; as will at all times, show the true situation of the same to such as may desire to inspect the same: and the said president and trustees shall have full power to enforce their ordinances, by authorizing the person or persons by them

appointed to collect any tax imposed in pursuance of this act, to collect the same by distress and sale of goods and chattels of the person chargeable with the same, on giving at least thirty days' public notice of the time and place of such sale : and, if no goods or chattels of the person chargeable with said tax can be found, it shall be lawful to sell any town lot owned by such person, or, so much thereof, as will pay the tax due in arrear from any such person, upon giving at least thirty days' notice of the time and place of making such sale, paying to the owner, or owners, the overplus, if any. The president and trustees may impose fines for the breach of their ordinances ; but no fine shall be inflicted on any one person, for any one breach of any ordinance, of more than five dollars, which fine may be recovered before any justice of the peace, by action of debt, in the name of the president and trustees of such town, and collected by execution, as other judgments of justices of the peace. All fines collected in pursuance of this act, shall by the officer collecting the same, be paid over to the treasury of the corporation ; and, for an omission to do so, such officer may be proceeded against by the president and trustees in an action of debt for the same.

SEC. 9. Two-thirds of the qualified voters of any town, incorporated according to the provisions of this act, shall have power to dissolve the same, at any annual election for president and trustees, by voting against the incorporation, as is directed in the second section of this act.

SEC. 10. Whatever a president and trustees shall be elected for any town as herein directed, it shall be the duty of the president and clerk of the first meeting, provided for in the first section of this act, to deliver to them a certified statement in writing, of the polls at said first meeting; and it shall be the duty of such president and trustees, to deposit the same with the clerk of the county commissioners' court, of the proper county to be entered on record, in his office ; and before entering upon their duty, to take an oath to discharge their duty according to their best abilities.

SEC. 11. Whenever any town shall be incorporated by this act, all other laws incorporating the same, or made to regulate in any way, the internal police of such town, shall be considered as repealed. The inhabitants of any town incorporated by this act, shall not be required to work upon any road, except as herein required. And whenever any town corporation shall be dissolved, according to this act, all persons having any funds belonging to such corporation, in their hands, shall pay the same into the county treasury; and all bonds and securities taken for the same by such corporation, shall vest in the county commissioners for the use of such county, who may have and maintain any proceedings thereon in law or equity, which might have been had by the said corporation.

SEC. 12. This act shall be considered a public act, and shall be in force from and after the first day of March next.

(Approved, February 12, 1831.)

The town of Chicago was organized under the above act August 12, 1833.

ACTS AMENDING THE ABOVE ACT.

On January 31, 1835, an act was passed extending the powers of trustees of towns organized under the act of 1831, and authorizing them to appoint constables.

On February 6, 1835, an act was passed providing for the organization of schools in Township 39 north, range 14 east of the 3d principal meridian. This was the township within which the town of Chicago was located, and which it was ere long to include.

CHAPTER III.

Second Charter of the Town of Chicago.

[Second Charter of the Town of Chicago, being a special act of the legislature entitled "An Act to change the corporate powers of the Town of Chicago." Passed February 11, 1835.[1] In effect the first Monday in June, 1835.]

Section 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That John H Kinzie, Gurdon S. Hubbard, Ebenezer Goodrich, John K. Boyer, and John S. C. Hogan, be, and they are hereby constituted a body politic and corporate, to be known by the name of the "Trustees of the town of Chicago," and by that name, they, and their successors shall be known in law, have perpetual succession, sue and be sued, implead and be impleaded, defend and be defended in courts of law and equity, and in all actions and matters whatsoever; may grant, purchase, and receive and hold property, real and personal within the said town, and no other, (burial grounds excepted), and may lease, sell, and dispose of the same for the benefit of the town, and shall have power to lease any of the reserved lands which have been, or may hereafter be appropriated to the use of said town, and may do all other acts, as natural persons; may have a common seal, and break and alter the same at pleasure.

Sec. 2. That all that district of country contained in sections *nine* and sixteen, north and south fractional sections *ten*, and fractional section *fifteen*, in township thirty-nine north, of range fourteen east, of the third principal meridian, is hereby declared to be within the boundaries of the town of Chicago: *Provided*, That the authority of the board of trustees of the said town of Chicago, shall not extend over the south fractional section

[1] *Cf. Laws of Illinois*, Vandalia, 1835, p. 204 and ff.

ten, until the same shall cease to be occupied by the United States.

SEC. 3. That the corporate powers and duties of said town, shall be vested in nine trustees, (after the term of the present incumbent shall have expired, towit: on the first Monday of June next, and to be chosen and appointed as hereinafter directed), who shall form a board for the transaction of business.

SEC. 4. The members composing the board of trustees, shall be elected annually, on the first Monday in June, by the persons residing within said town, (qualified to vote for representative to the legislature), to serve for one year; they shall be at least twenty-one years of age, citizens of the United States, and inhabitants of said town, and shall possess a freehold estate within the limits thereof.

SEC. 5. That the board of trustees shall appoint their president from their own body; shall appoint all other officers of their board and shall be the judges of the qualifications, elections, and returns of their own members; a majority shall constitute a board to do business, but a smaller number may adjourn from day to day; may compel the attendance of absent members, in such manner and under such penalties as the board may provide; they may determine the rule of proceeding, and make such other rules and regulations for their own government, as to them may seem proper and expedient.

SEC. 6. That the board of trustees shall have power to levy and collect taxes upon all real estate within the town, not exceeding the one-half of one per centum upon the assessed value thereof, except as hereinafter excepted; to make regulations to secure the general health of the inhabitants; to prevent and remove nuisances; to establish night watches; erect lamps in the streets, and lighting the same; to regulate and license ferries within the corporation; to lease the wharfing privilege of said town, giving to the owner or owners, occupant or occupants of the lots fronting the river, the preference of such privilege; to erect and keep in repair bridges; to provide for licensing,

taxing and regulating theatrical and other shows, billiard tables and other amusements; to restrain and prohibit gaming houses, bawdy houses, and other disorderly houses; to build market houses; establish and regulate markets; to open and keep in repair streets, avenues, lanes, alleys, drains and sewers; to keep the same clean and free from incumbrances; to establish and regulate a fire department, and to provide for the prevention and extinguishment of fires; to regulate the storage of gun powder and other combustible materials; to erect pumps and wells in the streets, for the convenience of the inhabitants; to regulate the police of the town; to regulate the election of the town officers; to fix their compensation; to establish and enforce quarantine laws; and from time to time, to pass such ordinances to carry into effect the ordinances of this act, and the powers hereby granted, as the good of the inhabitants may require, and to impose and appropriate fines and forfeitures for the breach of any ordinance, and to provide for the collection thereof: *Provided*, That said trustees shall, in no case, levy a tax upon lots owned by the state.

Sec. 7. That upon the application of the owners of two-thirds of real estate, on any street or parts of a street, it shall be lawful for the board of trustees to levy and collect a special tax on the owners of the lots on the said street or parts of a street, according to their respective fronts, for the purpose of grading and paving the sidewalks on said street.

Sec. 8. That the board of trustees shall have power to regulate, grade, pave and improve the streets, avenues, lanes, and alleys within the limits of said town, and to extend, open and widen the same, making the person or persons injured thereby, adequate compensation; to ascertain which, the board shall cause to be summoned twelve good and lawful men, freeholders and inhabitants of said town, not directly interested, who (being first duly sworn for that purpose), shall inquire into, and take into consideration, as well the benefits as the injury which may accrue, and estimate and assess the damages which would be sustained by reason of the opening, extension, widen-

ing of any street, avenue, lane or alley; and shall, moreover, estimate the amount which other persons will be benefited thereby, and shall contribute towards compensating the persons injured; all of which shall be returned to the board of trustees, under their hands and seals; and the person or persons who shall be benefited and so assessed, shall pay the same in such manner as shall be provided, and the residue, if any, shall be paid out of the town treasury.

SEC. 9. All ordinances shall, within ten days after they are passed, be published in a newspaper printed in said town, and posted in three of the most public places thereof.

SEC. 10. That when any real estate, in said town, shall have been sold by the authority of the corporation thereof, for the non-payment of any tax that may have been levied upon the same, the same shall be subject to redemption by the owner or owners thereof, his, her, or their agent or agents, within one year after the same shall have been sold, on paying to the treasurer of the board of trustees of said town, double the amount of the taxes for which the same was sold, together with costs for the selling of the same. But should the said lots, or parts of lots so sold for the non-payment of the taxes aforesaid, not be redeemed within the time specified, then, in that event, it shall be the duty of the president of the board of trustees of the said town, to execute a deed, with a special warranty, signed by the president of said board, and countersigned by the clerk thereof.

SEC. 11. It shall be the duty of the board of trustees to cause to be paid to the purchasers of lots, all moneys which may have been paid to the treasurer, over the costs for selling the same.

SEC. 12. The officers of said town (in addition to the trustees) shall consist of one clerk, one street commissioner, one treasurer, one assessor and collector of taxes, one town surveyor, two measurers of wood and coal, two measurers of lumber, two measurers and weighers of grain, and such other officers as the trustees of said town may deem necessary for the good of said town.

SEC. 13. That the president and trustees of said town shall, whenever they may deem necessary, order the formation of fire engine companies, and fire-hook and ladder companies. The fire engine companies each to contain from twenty-five to forty able-bodied men, of between the ages of eighteen and fifty years, and no more. The fire, hook and ladder companies to contain each from fifteen to twenty-five able-bodied men and no more. Which companies shall be officered and governed by their own by-laws; shall be formed only by voluntary enlistment. Every member of each company shall be exempted from jury and military duty; and whenever a member of such company shall have served twelve years, he shall receive a discharge from the incorporation, signed by the president, and shall, forever thereafter, be exempted from further jury duty, and from further military duty, except in case of invasion.

SEC. 14. That the members of the board of trustees, and every officer of said corporation, shall, before entering on the duties of his office, take an oath or affirmation before some judge or justice of the peace, to support the constitution of the United States and of this state, and faithfully to demean themselves in said office.

SEC. 15. That this incorporation shall be divided into three districts, to-wit: All that part which lies south of the Chicago river, and east of the south branch of said river, shall be included in the first district; all that part which lies west of the north and south branches of said river, shall be included in the second district; and all that part which lies north of the Chicago river, and east of the north branch of said river, shall be included in the third district; and the taxes collected within the said respective districts, shall be expended under the direction of the board of trustees, for improvements within their respective districts; but all elections for trustees, in said town, shall be by general ticket.

(Approved, February 11, 1835.)

Acts Amending the Above Act.

On January 15, 1836, an act was passed limiting the power of the town of Chicago to lease its wharfing privileges and reducing its taxing power from one-half to one-quarter of one per centum upon the assessed valuation.

On January 18, 1836, an act was passed incorporating the Chicago Hydraulic Company, giving it authority to lay water mains through the streets of Chicago without reference to the consent of the trustees.

On February 10, 1837, an act was passed granting a burial lot to the town of Chicago—east one-half of southeast one-quarter of section 33, township 40 north, range 14, east, providing that it shall never be used for any other purpose.[1]

[1] This tract became subsequently a part of Lincoln Park.

CHAPTER IV.

The First City Charter of Chicago.

[Being an Act to incorporate the City of Chicago. Passed March 4, 1837.][1]

Section 1. *Be it enacted by the people of the State of Illinois represented in the General Assembly*, That the district of country in the county of Cook in the state aforesaid, known as the east half of the southeast quarter of section thirty-three, in township forty, and fractional section thirty-four in the same township, the east fourth part of sections six, seven, eighteen and nineteen, in the same township,[2] also fractional section three, section four, section five, section eight, section nine, and fractional section ten, excepting the southwest fractional quarter of section ten, occupied as a military post, until the same shall become private property, fractional section fifteen, section sixteen, section seventeen, section twenty, section twenty-one, and fractional section twenty-two, in township thirty-nine north range number fourteen east of the third principal meridian, in the state aforesaid, shall hereafter be known by the name of the city of Chicago.

Sec. 2. The inhabitants of said city, shall be a corporation by the name of the city of Chicago, and may sue and be sued, complain and defend in any court, make and use a common seal, and alter it at pleasure, and take, hold, purchase and convey such real and personal estate, as the purposes of the corporation may require.

Sec. 3. The said city shall be divided into six wards, as follows: All that part of the city which lies south of Chicago river and east of the center of Clark street, following the center

[1] *Cf.* Laws of Illinois passed at Session ending March 6, 1837, p. 50 and ff.

[2] This is evidently wrong. It should read "in township 39" instead of "in the same township."

of Clark street to the south line of section sixteen, thence following the said south line of section sixteen, to the center of State street, and all that part of said city which lies east of the center of said State street, and a line parallel with the center of said street, to the southern boundary of said city, shall be denominated the first ward of said city. All that part of said city which lies south of said Chicago river, west of the first ward, and east of the south branch of said Chicago river, shall be denominated the second ward of said city; all that part of said city, lying west of the aforesaid south branch of the said Chicago river, and south of the center of Randolph street, and by a line parallel with the center of said Randolph street, to the western boundary of said city, shall be denominated the third ward; all that part of said city which lies north of the said third ward and west of the said Chicago river, and the north and south branches thereof, shall be denominated the fourth ward of said city; all that part of said city which lies north of the Chicago river, and east of the north branch thereof, and west of the center of Clark street, to the center of Chicago avenue, and lying south of the center of Chicago avenue, to the center of Franklin street, and lying west of Franklin street, and a line parallel with the center thereof, to the northern boundary of said city, shall be denominated the fifth ward; all that part of said city lying north of the Chicago river, and east of the said fifth ward, shall be denominated the sixth ward of said city.

Sec. 4. There shall be in and for the said city, except as hereinafterwards provided, one mayor, twelve aldermen, one clerk, one treasurer, six assessors, one or more collectors, and such other officers as are hereinafter authorized to be appointed, which with said mayor, aldermen, and assessors, shall be free holders in the said city.

Sec. 5. An election shall be held in each of the wards of said city, on the first Tuesday in March in each year, after the year eighteen hundred and thirty-seven, at such place as the common council of said city may appoint, and of which six days

previous public notice shall be given in writing, in three public places in each ward by the inspectors thereof.

SEC. 6. At the first election under this act, and at each annual election thereafter, there shall be elected two aldermen and one assessor from each ward, each of whom shall be an actual resident of the ward in which he was elected, *Provided however*, That the aforesaid wards, denominated the third and fifth wards, shall be entitled to elect but one alderman for each ward, until the annual election for the year *anno domini* 1839.

SEC. 7. The common council shall appoint three inspectors of elections for each ward, who shall be inspectors of elections after the first. Such inspectors shall have the same power and authority as the inspectors of a general state election.

SEC. 8. The manner of conducting and voting at the elections to be held under this act, and the keeping of the poll lists thereof, shall be the same, as nearly as may be, as is provided by law, at the general state election, *Provided*, That the common council may hereafter, if expedient, change the mode of election to that by ballot, and prescribe the manner of conducting the same.

SEC. 9. Every person voting at such election, shall be an actual resident of the ward in which he so votes, shall be a house holder within the city, or shall have paid a city tax of not less than three dollars, within twelve months next preceding such election, and shall have resided in said city at least six months next preceding such election, and shall moreover if required by any person qualified to vote thereat, before he is permitted to vote, take the following oath: you swear or affirm that you are of the age of twenty-one years, that you have been a resident of this city for six months immediately preceding this election, that you are a house holder therein, or that you have paid a city tax of not less than three dollars within twelve months next preceding this election, and that you are now a resident of this ward, and have not voted at this election.

SEC. 10. The persons entitled to vote at any election held

under this act, shall not be arrested on civil process within said city on the day on which said election is held.

SEC. 11. The trustees of the town of Chicago for the time being, shall appoint the inspectors of the first election to be held under this act. Such election shall be held and conducted, and the votes thereat canvassed by said inspectors, and the result determined in the manner hereinbefore provided: the said trustees shall also appoint the time and place of holding such first election, which time shall be some day after the passage of this act, and on or before the first day of June next.

SEC. 12. Vacancies in the offices of mayor and aldermen occurring in any manner, may be filled at a special election called and appointed by the common council, and conducted in the same manner as an annual election; vacancies in all other offices shall be filled by appointment by the common council: all appointments to fill a vacancy in an elective office under this act, and all appointments of clerk, treasurer, attorney for the city, police constables, collectors, street commissioners, and city surveyors, shall be by warrant under the corporate seal, signed by the mayor as presiding officer of the common council, and clerk. In case of a failure to elect aldermen at an annual election, or if from any cause there shall be no alderman, the clerk shall appoint the time and places for holding a special election, and appoint the inspectors: all officers appointed or elected to any office under, or by virtue of this act, except as hereinafterwards provided, shall be appointed or elected annually, and except to fill a vacancy, shall hold their respective offices for one year, and until others are chosen, and have taken the oath of office.

SEC. 13. The common council shall appoint as many police constables as they shall think proper, not exceeding one in each ward, who shall not have power to serve any civil process out of the limits of said city, except in cases of persons fleeing from said city, and to commit on execution where the defendant shall have been arrested in the said city.

SEC. 14. The mayor for the said city shall be chosen by the

qualified electors of the said city, at the same time and in the same manner as is prescribed for the choosing of aldermen, whose term of service shall be for one year, until his successor shall be chosen and qualified. At the time of voting for aldermen, the electors of said city shall also vote in their respective wards, for some qualified person as mayor of said city, which votes shall be canvassed and certified at the same time, and in the same manner as those given for aldermen, and the person having the highest number of votes given in the several wards at such election shall be mayor.

SEC. 15. The mayor and alderman of the said city shall constitute the common council of said city. The common council shall meet at such times and places as they shall by resolution direct, or as the mayor, or in his absence any two of the aldermen, shall appoint. The mayor when present, shall preside at all meetings of the common council, and shall have only a casting vote. In his absence, any one of the aldermen may be appointed to preside; a majority of the persons elected as aldermen, shall constitute a quorum. No member of the common council shall, during the period for which he was elected, be appointed to, or be competent to hold any office of which the emoluments are paid from the city treasury, or paid by fees directed to be paid by any act or ordinance of the common council, or be directly or indirectly interested in any contract, the expenses or consideration whereof are to be paid under any ordinance of the common council. But this section shall not be construed to prevent the mayor from receiving his salary or any other fees permitted by this act.

SEC. 16. The common council shall meet annually, after the year 1837, on the second Tuesday in March, and in 1837, on the day following the election, and, by ballot, appoint a clerk, treasurer, city attorney, street commissioner, police constables, clerk of the market, one or more collectors, one or more city surveyors, one or more pound-masters, porters, carriers, cartmen, packers, beadles, bellmen, sextons, common criers, scavengers, measurers, surveyors, weighers, sealers of weights and

measures, and gaugers. If for any cause the officers above-named are not appointed on the second Tuesday of March, on the day after the election, in the year eighteen hundred and thirty-seven, the common council may adjourn from time to time until such appointments are made.

SEC. 17. If any inhabitants of said city, elected or appointed to any office in pursuance of this act, shall refuse or neglect to accept such office, and take and subscribe the oath of office prescribed by the constitution of this state, for five days after personal notice in writing from the clerk, of his election, he shall forfeit the sum of ten dollars.

SEC. 18. Every person chosen or appointed to any executive, judicial or administrative office, under this act, shall, before he enters on the duties of his office, take and subscribe, before some justice of the peace, the oath of office prescribed in the constitution of this state, and file the same, duly certified by the officer before whom it was taken, with the clerk of the city.

SEC. 19. The treasurer, street commissioner, and collector or collectors of said city shall, severally, before they enter on the duties of their respective offices, execute a bond to the city of Chicago, in such sum, and with such sureties as the common council shall approve; conditioned that they shall faithfully execute the duties of their respective offices, and account for, and pay over all moneys received by them respectively; which bonds, with the approval of the common council certified thereon by the clerk, shall be filed with the clerk of the city.

SEC. 20. Every person appointed to the office of constable, in said city, shall, before he enters upon the duties of his office, with two or more sureties, to be approved by the common council, execute in presence of the clerk of the city, an instrument in writing, by which such constable and sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as the said constable may become liable to pay, by reason or on account of any summons, execution, distress warrant or other process which shall be delivered to him for collection. The clerk of the city shall

certify the approval of the common council on such instrument, and file the same; and a copy of such instrument, certified by the clerk under the corporate seal, shall be presumptive evidence in all courts, of the execution thereof by such constable and his sureties; and all actions on any such instrument shall be prosecuted within two years after the expiration of the year for which the constable named therein shall have been elected or appointed, and may be brought in the name of the person or persons entitled to the money collected by virtue of such instruments.

SEC. 21. The treasurer shall receive all moneys belonging to the city, and keep an accurate account of all receipts and expenditures, in such manner as the common council shall direct; all moneys shall be drawn from the treasury in pursuance of an order of the common council by warrant signed by the mayor or presiding officer of the common council, and countersigned by the clerk; such warrant shall specify for what purpose the amount specified therein, is to be paid; and the clerk shall keep an accurate account of all orders drawn on the treasury in a book to be provided for that purpose. The treasurer shall exhibit to the common council, at least fifteen days before the annual election in each year, a full and detailed account of all receipts and expenditures, after the date of the last annual report, and also of the state of the treasury, which account shall be filed in the office of the clerk.

SEC. 22. It shall be the duty of the common council, at least ten days before the annual election held under this act in each year, to cause to be published in two or more of the public newspapers in said city, a full and correct statement of the receipts and expenditures by the said common council, for the contingent expenses of the said city from the date of the last annual report, published in pursuance of this section to the date of said reports, and also a distinct statement of the whole amount of money assessed, received and expended in the respective wards for making and repairing roads, highways and bridges, in said city for the same period, together with such

other information in their power to furnish, as may be necessary to a full understanding of the financial concerns of the said city.

SEC. 23. The clerk shall keep the corporate seal, and all the papers belonging to said city, and make a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; and copies of all papers duly filed in his office, and transcripts from the records of the proceedings of the common council certified by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced.

SEC. 24. It shall be the duty of the street commissioner to superintend the making of all public improvements ordered by the common council, and to make contracts for the work and materials which may be necessary for the same, and shall be the executive officer to carry into effect the ordinances of the common council relative thereto, and shall keep accurate accounts of all moneys expended by him in performance of any work, together with the cause of such expenditures, and to render such account to the common council, monthly.

SEC. 25. That the city surveyor or surveyors, appointed by the said common council, shall have the sole power, under the direction and control of the said common council, to survey within the limits of said city; and he or they shall be governed by such rules and ordinances as the said common council shall direct, and receive such fees and emoluments for his or their services, as the common council shall appoint.

SEC. 26. The mayor of said city, for the time being, shall be allowed an annual salary of five hundred dollars, payable out of the treasury, and the other officers of said corporation shall be paid out of the treasury such compensation for their services, when the same are not herein provided for, as the said common council may deem adequate and reasonable.

SEC. 27. If any person after having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all the property, papers and effects of every description in his possession belonging to the

said city, or appertaining to the office he held, he shall forfeit and pay for the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver.

SEC. 28. The common council shall hold stated meetings and the mayor or any two aldermen, may call special meetings by notice to each of the members, of said council, served personally, or left at his usual place of abode. Petitions and remonstrances may be presented to the common council. The common council shall have the management and control of the finances, and of all the property real and personal, belonging to the corporation, and shall have power within said city, to make and establish, publish, alter, modify, amend and repeal ordinances, regulations, rules, and by-laws, for the following purposes:

1. To prevent all obstructions in the waters which are public highways in said city.

2. To prevent and punish forestalling and regrating, and to prevent and restrain every kind of fraudulent device and practice.

3. To restrain and prohibit all descriptions of gaming and fraudulent devices in said city, and all playing of dice, cards and other games of chance with, or without betting, in any grocery, shop or store.

4. To regulate the selling or giving away any ardent spirits, by any storekeeper, trader or grocer, to be drunk in any shop, store or grocery, outhouse, yard, garden or other place within the city, except by innkeepers duly licensed.

5. To forbid the selling or giving away of ardent spirits, or other intoxicating liquors, to any child, apprentice, or servant, without the consent of his or her parent, guardian, master or mistress, or to any Indian.

6. To regulate, license, or prohibit the exhibition of common showmen, and of shows of every kind, or the exhibition of any natural or artificial curiosities, caravans, circuses or theatrical performances.

7. To prevent any riot or noise, disturbance, or disorderly assemblage.

8. To suppress and restrain disorderly houses and groceries, houses of ill fame, billiard tables, nine or ten pin allies or tables, and ball allies, and to authorize the destruction and demolition of all instruments and devices used for the purpose of gaming.

9. To compel the owner or occupant of any grocery, cellar, tallowchandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as may be necessary for the health, comfort and convenience of the inhabitants of said city.

10. To direct the location and management of all slaughter houses, markets, and houses for storing powder.

11. To regulate the keeping and conveying of gunpowder and other combustibles and dangerous materials, and the use of candles and lights in barns and stables.

12. To prevent horse racing, immoderate riding or driving in the streets, and to authorize persons immoderately riding or driving as aforesaid, to be stopped by any person.

13. To prevent the encumbering the streets, sidewalks, lanes, alleys, public wharves and docks, with carriages, carts, sleighs, sleds, wheelbarrows, boxes, lumber, timbers, firewood, or any other substance or material whatsoever.

14. To regulate and determine the times and places of bathing and swimming in the canals, rivers, harbors and other waters, in and adjoining said city.

15. To restrain and punish vagrants, mendicants, street beggars, and common prostitutes.

16. To restrain and regulate the running at large of cattle, horses, swine, sheep, goats and geese, and to authorize the distraining, impounding, and sale of the same, for the penalty incurred and costs of proceeding.

17. To prevent the running at large of dogs, and to authorize the destruction of the same when at large, contrary to the ordinance

18. To prevent any person from bringing, depositing, or having within the limits of said city, any dead carcass or any

other unwholesome substance, and to require the removal or destruction by any person who shall have upon or near his premises any such substance, or any putrid or unsound beef, pork, fish, hides, or skins of any kind, and on his default, to authorize the removal or destruction thereof by some officer of said city.

19. To prevent the rolling of hoops, playing at ball, or flying of kites or any other amusement or practice having a tendency to annoy persons passing in the streets and on the sidewalks in said city, or to frighten teams and horses within the same.

20. To compel all persons to keep the snow, and ice, and dirt from the sidewalks in front of the premises owned or occupied by them.

21. To prevent the ringing of bells, blowing of horns and bugles, crying of goods and other things within the limits of said city.

22. To abate and remove nuisances.

23. To regulate and restrain runners for boats and stages.

24. To survey the boundaries of said city.

25. To regulate the burial of the dead.

26. To direct the returning and keeping of bills of mortality, and to impose penalties on physicians, sextons, and others, for any default in the premises.

27. To regulate gauging, the place and manner of selling and weighing hay, of selling pickled and other fish, and of selling and measuring of wood, lime, and coal, and to appoint suitable persons to superintend and conduct the same.

28. To appoint watchmen, and prescribe their duties and powers.

29. To regulate cartmen and cartage.

30. To regulate the police of said city.

31. To establish, make, and regulate public pumps, wells, cisterns, and reservoirs, and to prevent the unnecessary waste of water.

32. To establish and regulate public pounds.

33. To erect lamps and regulate the lighting thereof.

34. To regulate and license ferries. The said common council shall have the power to prohibit the use of locomotive engines on any railroad within the inhabited parts of said city, and may require the cars to be used thereon within the inhabited portions thereof, to be drawn or propelled by other power than that of steam. The common council may erect and establish a bridewell or house of correction in the said city, and may pass all necessary ordinances for the regulation thereof; may appoint a keeper and as many assistants as shall be necessary, and shall prescribe their duties and compensation, and the securities to be given by them. In the said bridewell, or house of correction, shall be confined all rogues, vagabonds, stragglers, idle or disorderly persons who may be committed thereto by the mayor or any alderman in said city; and all persons sentenced by any criminal court in and for said city, for any assault and battery, petit larceny, or other misdemeanor punishable by imprisonment in a county jail, shall be kept therein in the same manner as prisoners of that description are required to be kept in the county jails. The common council may, by ordinances, require every merchant, retailer, trader, and dealer in merchandise or property of any description which is sold by measure or weight, to cause their weights and measures to be sealed by the city sealer, and to be subject to his inspection, and may impose penalties for any violation of any such ordinances; the standard of which weights and measures shall be agreeable to those now established by law.

SEC. 29. The common council shall have power, from time to time, to prescribe the duties of all officers and persons appointed by them to any office or place whatsoever, subject to the provisions of this act, and may remove all such persons or officers at pleasure.

SEC. 30. The common council may make, publish, ordain, amend and repeal, all such ordinances, by-laws, and police regulations, not contrary to the laws of this state, for the good government and order of said city, and the trade and commerce thereof, as may be necessary to carry into effect the powers

given to said council by this act, and enforce observance of all rules, ordinances, by-laws and police regulations made in pursuance of this act, by imposing penalties upon any person violating the same, not exceeding one hundred dollars for any offense, to be recovered with costs, in an action of debt before the mayor or any justice of the peace of the said city; every such ordinance or by-law, imposing any penalty or forfeiture for a violation of its provisions, shall, after the passage thereof, be published for three weeks successively, in the corporation newspaper printed and published in said city; and proof of such publication by the affidavit of the printer or publisher of said newspaper, taken before any officer authorized to administer oaths, and filed with the clerk of the city, or any other competent proof of such publication, shall be conclusive evidence of the legal publication and promulgation of such ordinance or by-laws in all courts and places.

SEC. 31. The common council at their annual meeting on the second Tuesday in March, in each year, after eighteen hundred and thirty-seven, and at their first meeting in that year, or within ten days thereafter, shall designate one public newspaper printed in said city, in which shall be published all ordinances and other proceedings and matters required in any case by this act, or the by-laws and ordinances of the common council, to be published in a public newspaper.

SEC. 32. All actions brought to recover any penalty or forfeiture incurred under this act, or the ordinances, by-laws or police regulations made in pursuance of it, shall be brought in the corporate name; and in any such action it shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the by-laws or ordinances under which the penalty is claimed, and to give the special matter in evidence, and the defendant may plead the general issue and give the special matter in evidence under it. The first process in any such action shall be by warrant, and execution may be issued thereon immediately on the rendition of judgment. If the defendant in any such action have no goods or chattels, lands or

tenements, whereof the judgment can be collected, the execution shall require the defendant to be imprisoned in close custody in the jail of Cook county for a term not exceeding thirty days. All expenses incurred in prosecuting for the recovery of any penalty or forfeiture, shall be defrayed by the corporation, and all penalties and forfeitures when collected shall be paid to the treasurer for the use of the city.

SEC. 33. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant or freeholder in the city of Chicago, in any action or proceeding in which the said city is a party in interest.

SEC. 34. The common council of said city shall have power to revise, alter and correct the several assessment rolls of the different assessors of said city and to prescribe the rate of assessment, the form of the assessment roll, and to make such rules in relation thereto as they may deem expedient and proper.

SEC. 35. The common council shall have power in each year to raise a sufficient sum by tax upon real or personal estate in said city, not exceeding the one-half of one per centum upon the assessed value thereof, to defray the expenses of lighting the streets, supporting a night watch, and making and repairing streets, roads, highways and bridges in the said city and to defray the contingent and other expenses of said city; *Provided*, that the said common council shall in no case levy a tax upon lots or lands owned by the state, nor any tax for making and repairing streets, roads and highways, contrary to the subsequent provisions of this act.

SEC. 36. The said common council are hereby authorized to require every male resident of the city over the age of twenty-one years, to labor at least three days in each and every year upon the streets and alleys of said city, at such time and in such manner as the street commissioner shall direct, but any person may at his option pay at the rate of one dollar for every day he shall be so bound to labor and such labor or payment shall be in lieu of all labor required to be performed upon any roads, streets or alleys by any law of this state; and in default of the payment

of such money, or the performance of such labor, the said common council may sue for and collect such money before the mayor or any justice of the peace.

SEC. 37. The said common council shall have the exclusive power to regulate, repair, amend and clear the streets and alleys of said city; bridges, side and crosswalks, and of opening said streets, and of putting drains and sewers therein, and to prevent the encumbering of the same in any manner, and to protect the same from encroachments and injury; they shall also have power to direct and regulate the planting and preserving of ornamental trees, in the streets of said city.

SEC. 38. The common council shall have power to lay out, make, and assess streets, alleys, lanes, highways in said city, and make wharves and slips at the end of streets, on property belonging to said city, and to alter, widen, contract, straighten and discontinue the same, but no building exceeding the value of one thousand five hundred dollars shall be removed, in whole or in part, without the consent of the owner. They shall cause all streets, alleys, lanes or highways, laid out by them, to be surveyed, described and recorded in a book to be kept by the clerk, and the same when opened and made shall be public highways. Whenever any street, alley, lane, highway, wharf or slip is laid out, altered, widened or straightened by virtue of this section, the common council shall give notice of their intention to appropriate and take the land necessary for the same to the owner or owners thereof by publishing said notice for fourteen days in the corporation newspaper printed in said city, and after the expiration of the said fourteen days the common council shall give notice to the said owner or owners by publishing the same for thirty days in the corporation newspaper, that such owner or owners may file a notice with the clerk of the city of a claim for damages, on account of appropriating the land of such owner or owners for the uses specified in this section; and if such owner or owners shall within said thirty days file or cause to be filed such notice of a claim for damages as aforesaid, with the clerk of the city, the common council shall choose by ballot five discreet and

disinterested freeholders, residing in said city, as commissioners to ascertain and assess the damages and recompense due the owner or owners of such land, and at the same time to determine what persons will be benefited by such improvement, and to assess the damages and expenses thereof, on the real estate of the persons benefited, in proportion, as nearly as may be, to the benefits resulting to each. A majority of all the aldermen authorized by law to be elected, shall be necessary to constitute a choice of such commissioners. The commissioners shall be sworn by the mayor or any justice of the peace in said city, faithfully and impartially to execute their duty in making such assessment, according to the best of their ability. The commissioners shall view the premises, and in their discretion receive any legal evidence, and may if necessary adjourn from day to day. The commissioners shall before they enter upon the duties assigned them by this section, give notice to the persons interested of the time and place of meeting of the said commissioners for the purpose of viewing the premises and of making such assessment at least five days before the time of such meeting, by publishing such notice in the corporation newspaper printed in said city. The said commissioners shall determine and award to the owner or owners of said land such damages as they shall judge such owner or owners to sustain in consequence of such street, lane, alley, highway, wharf or slip having been laid out, altered, widened or straightened, after taking into consideration and making due allowance for any benefit which said owner or owners may derive from such improvement. The said commissioners shall at the same time assess and apportion the said damages and expenses of said improvement on the real estate benefited thereby, as nearly as may be, in proportion to the benefit resulting therefrom, and shall describe the real estate upon which any such assessment is made. If there be any building on any land taken for such improvement, the owner thereof shall have ten days, or such time as the common council may allow after the final assessment of the commissioners is returned to and confirmed by the common council, to remove the same,

and in case such owner removes such building, the value thereof to the owner to remove shall be deducted from the amount of the damages awarded to the owner thereof, and such value shall be at the time of the assessment determined by the commissioners. The determination and assessment of the commissioners shall be returned in writing, signed by all the commissioners to the common council, within thirty days after their appointment by said common council as aforesaid; the common council may, if sufficient objections are made to the appointments of any of said commissioners, or if any such commissioners shall be unable to serve, by sickness or any other cause, appoint other commissioners to serve in their places, in the manner as is herein provided. And the said common council, after the determination and assessment of the commissioners as aforesaid is returned to them, shall give two weeks notice in the corporation newspaper, printed in said city, that such determination and assessment of the commissioners will, on a day to be specified in said notice, be confirmed by the common council, unless objections to such determination and assessment as aforesaid, are made by some person interested; all objections to such determination and assessment as aforesaid, shall be briefly stated in writing and filed with the clerk; if no objections are made as aforesaid, the said determination and assessment shall be confirmed by the common council. If objections are made as aforesaid, any person interested may be heard before the common council, touching the said determination and assessment of the commissioners on the day specified in the aforesaid notice, or on such other day or days as the common council shall for that purpose appoint; and the said common council in consideration of the objections made, shall have power in their discretion to confirm such determination and assessment of the commissioners, or, to annul the same, and refer the same subject matter back to the same commissioners, or appoint five other commissioners for the purposes and in the manner herein provided; and the said commissioners shall make the second determination and assessment, and return the same to the common council in

like manner, and give like notices, as they are herein required in relation to the first determination and assessment, and returns thereof, and the parties in interest shall have the like notices and rights, and the common council shall perform like duties, and have like powers in relation to the second determination and assessment of said commissioners as are herein given and required in relation to the first determination and assessment of said commissioners, and in case the common council shall confirm the second determination and assessment of said commissioners, the same shall be final and conclusive on all persons interested. But in case the common council shall annul the same, then all the proceedings in relation to laying out, altering, widening or straightening such street, alley, lane, highway, wharf or slip shall be null and void. But nothing herein contained shall authorize the said common council to discontinue or contract any street or highway or any part thereof, except for the purpose of widening and improving the rivers and making basins and slips within said city, without the consent in writing of all persons owning land adjoining such street or highway. That in all cases where the whole of any lot or parcel of land or other premises under lease or other contract shall be taken for any of the purposes aforesaid by virtue of this act, all the covenants, contracts and engagements between landlord and tenant, or any other contracting parties, touching the same or any part thereof, shall upon confirmation of such report in the premises as shall be confirmed by the common council aforesaid, respectively cease and determine and be absolutely discharged; and in all cases where part only of any lot or parcel of land or other premises so under lease or other contract, shall be so taken for any of the purposes aforesaid, all contracts and engagements respecting the same, shall upon the confirmation of such report in the premises as shall be so confirmed as aforesaid, cease, determine and be absolutely discharged, as to the part thereof so taken, but shall remain valid and obligatory as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for, or in respect to the same shall be so

apportioned as that the part thereof, justly and equitably payable, or that ought to be paid for such said residue thereof, and no more shall be demanded or paid or recoverable for or in any respect of the same. No power is given by virtue of this act to alter, change, lay out in lots or lease that part of the town of Chicago originally laid out by the commissioners of the Illinois and Michigan canal on section nine, in township thirty-seven[1] north, range fourteen, east of the third principal meridian, as lies between the river and North and South Water streets, or is comprised within said streets.

SEC. 39. All taxes and assessments imposed, voted and assessed by the said common council, shall be collected by the collector of the said city, in the same manner and with the same power and authority as taxes in and for any county of the state are collected, by virtue of a warrant or warrants under the corporate seal, signed by the mayor or presiding officer, or by suit in the corporate name with interest and costs, and the assessment roll of the said common council, shall in all cases be evidence on the part of the corporation, and taxes or assessments, imposed or assessed on, or in respect of any real estate, within the said city, shall be a lien, on filing the roll with the clerk of the city on such real estate, and in case such taxes or assessments are not paid, the common council may cause such real estate to be sold for the payment and collection of such taxes and assessments as aforesaid, together with the expenses of the sale, in the manner and with the effect, and subject to the provisions specified in the forty-first section of this act, relative to the sales of real estate, for the non-payment of assessments or taxes: all taxes and sums of money raised and collected by virtue of this section, shall be paid to the treasurer of the city. In all cases where there is no agreement to the contrary, the owner or landlord and not the occupant or tenant, shall be deemed in law the person who ought to bear and pay every assessment made for the expenses of any public improvement in the said city; where any such assessment shall be made

[1] This should evidently read thirty-nine instead of thirty-seven.

upon or paid by any person, when by agreement or by law, the same ought to be borne or paid by any other person, it shall be lawful for the one so paying, to sue for and recover of the person bound to pay the same, the amount so paid with interest, in an action for money so paid, laid out and expended for the benefit of such defendant; nothing herein contained shall impair, or in any way affect, any agreement between any landlord and tenant, or other persons respecting the payment of such assessments.

SEC. 40. The common council shall have power to cause any street, alley, lane, or highway in said city, to be graded, leveled, paved, repaired, macadamized or graveled, to cause cross and sidewalks, drains, sewers, and acqueducts to be constructed and made in the said city, and to cause any sidewalks, or drains, sewers and acqueducts to be relaid, amended and repaired, and to cause the expenses of all improvements (except sidewalks), made and directed under this section, to be assessed upon the real estate in any ward in said city, deemed benefited by such improvements, in proportion to the benefits resulting thereto, as nearly as may be, which assessment shall not exceed two per centum per annum on the property assessed. The common council shall determine the amount to be assessed for all improvements to be made or directed under this section, except sidewalks, and shall appoint by a majority of all the aldermen authorized by law to be elected five reputable freeholders of said city, by ballot, to make such assessment. The assessors shall be sworn before the mayor or any justice of the peace in said city, faithfully and impartially to execute their duty as such assessors according to the best of their ability, and before entering upon the duties assigned them by this section, the assessors shall give notice to all persons interested, of the time and place of meeting of said assessors, at least four days before the time of such meeting, by publishing such notice in the corporation newspaper printed in said city, and they may, if necessary, adjourn from day to day. The said assessors shall assess the amount directed by the com-

mon council to be assessed, for any such improvement on the real estate deemed by them to be benefited thereby, in proportion to the benefit resulting thereto as nearly as may be, and the said assessors shall briefly describe in the assessment roll to be made by them, the real estate on, or [in] respect to which any assessment is made under this section ; when the assessment is completed, they shall give like notice, and also publish the same in the corporation newspaper, and have the same power to make corrections as in the case of the assessment of taxes. They shall deliver a corrected copy of the assessment roll signed by all the assessors, to the clerk of the city, within sixty days after their appointment as aforesaid, and any person interested may appeal to the common council for the correction of the assessment : such appeal shall be in writing, and shall be delivered to the clerk or presiding officer of the common council, within ten days after the corrected copy of the assessment roll is filed with the clerk. In case of appeal, the common council shall appoint a time within ten days thereafter, for the hearing of those who are interested, and shall cause a notice to be published in the corporation newspaper, designating the time and place and object of hearing, and they may adjourn said hearing from time to time, as may be necessary, and the common council shall, in case of appeal as aforesaid, have power in their discretion to confirm such assessment or to annul the same and direct a new assessment to be made in the manner hereinbefore directed by the same assessors or by five other assessors to be appointed as aforesaid, by the common council and sworn as aforesaid, which shall be final and conclusive on all parties interested in case the common council shall confirm the same. But in case the common council shall set aside the last aforesaid assessment all the proceedings in relation to the grading, leveling, paving, repairing, macadamizing or graveling such street, alley, lane, or highway in said city, shall be null and void. If the first assessment to be made and confirmed under this or the preceding sections proves insufficient, the common council may cause another to be made in the same manner, or if too large an amount shall

at any time be raised, the excess shall be refunded ratably to those by whom it was paid. The said assessors may, if in their opinion any owner or owners of land situated on such street, alley, lane, or highway, as shall be graveled or leveled, will sustain damages over and above the benefit which may accrue to the owner or owners of such land by such improvement, assess such an amount as they may deem a reasonable recompense to such owner or owners thereof, upon the real estate in said city, deemed by them to be benefited by such improvement, in proportion to the benefit resulting thereto, as nearly as may be, and the said assessors shall add such amount to the assessment roll, which they are herein required to make and certify the said amount to the common council, at the time of filing said roll with the clerk as aforesaid. If any vacancy shall happen in the office of assessor for any of the causes mentioned in the thirty-eighth section of this act, the same shall be filled by the common council in the manner therein provided.

Sec. 41. All assessments for improvements authorized by this act, shall be made upon the real estate, and be paid to, or collected by, the collector, except as herein otherwise directed. A corrected copy of the assessment roll shall, in all cases, be filed in the office of the clerk of the city, and the assessment shall be a lien upon the premises assessed for one year only after the final corrected copy of the assessment roll shall have been filed as aforesaid. In case of non-payment, the premises may be sold at any time within the year from the time of the filing of the said assessment roll. Before any such sale, an order shall be made by the common council, which shall be entered at large in the records of the city kept by the clerk, directing the attorney of the city to sell, and particularly describing the premises to be sold and the assessment for which the sale is to be made, a copy of which order shall be delivered to the said attorney. The said attorney shall then advertise the premises to be sold in the manner and for the time required in case of sales of real estate for taxes, and the sale shall be conducted in the same manner. The proceedings may be stopped

at any time before sale by any person paying to the said attorney the amount of the assessment, interest and expenses of advertising. All sales in such cases shall be made for the smallest portion of ground for which any person will pay the assessment, interest and expenses: certificates of the sale shall be made and subscribed by the said attorney, one of which shall be filed by him within ten days after the day of sale in the office of the clerk of the city, and one in the office of the recorder of Cook county, and shall contain a description of the property, and the price for which it was sold, and state the amount of the assessment, interest, and expenses for which the sale was made, and the time at which the right to redeem will expire. If the proceedings are stopped before a sale is made, the attorney may include one dollar and no more in the expenses for his fees. If the premises are sold, the attorney may include two dollars in the amount of expenses for his fees, and no more. The right of redemption in all cases of such sales in the same manner and to the same extent, shall exist to the owner and his creditors as is allowed by law in the cases of sales of real estate for taxes. The money in case of redemption, may be paid to the purchaser, or for him to the clerk of the city. In case of no redemption, or of redemption by the creditor or creditors, the common council shall make to the purchaser or his legal representators, or the person entitled thereto, a deed with a special warranty, signed by the mayor of said city, and countersigned by the clerk of said city, containing a description of the said premises sold for taxes or assessments as aforesaid.

SEC. 42. Any person interested may appeal from any order of the common council for laying out, opening, making, altering or widening any street, alley, lane, highway, to the circuit court of the county of Cook, or to the municipal courts of said city, by notice in writing, delivered to the mayor or clerk of the city, at any time before the expiration of twenty days after the passage of the ordinance therefrom by the common council. The only ground of appeal shall be the want of conformity in the proceedings to this act. The propriety or utility of the

streets, alleys, lanes, highways or other improvements, or the correctness of the assessment of damage if made in conformity to this act, shall not constitute a ground of appeal. In case of appeal, the common council shall make return within twenty days after notice thereof; and the said circuit or municipal court shall, at the next term after the return which shall be filed in the office of the clerk of said court, proceed to hear and determine the appeal and shall confirm or annul the proceedings of the common council.

SEC. 43. The land required to be taken for the making, opening or widening of any street, alley, lane, highway, in said city, shall not be so taken and appropriated by the common council, until the damages assessed and awarded therefor to any owner thereof under this act, shall be paid or tendered to such owner or his agent or legal representative, or in case the said owner, or his agent or legal representative cannot be found in said city, shall be deposited, to his or their credit, or for his or their use, in some safe place of deposit, other than the hands of the treasurer of said city; and then, and in such cases, and not before, such lands may be taken and appropriated by the common council, for the purposes, required in making such improvements, and such streets, alleys, lanes, highways, wharves or slips, may be made and opened.

SEC. 44. Where any known owner residing in said city or elsewhere, shall be an infant, and proceeding shall be had under sections thirty-eight and forty of this act, the circuit court of the county of Cook, the judge thereof, the municipal court of said city, or any such judge of the supreme court or judge of probate for said county, may upon the application of the common council, or such infant, or his next friend appoint a guardian for such infant, taking security for such guardian for the faithful execution of such trust, and all notices and summons required by either of said sections shall be served on such guardian.

SEC. 45. All owners and occupants, in front of whose premises the common council shall direct sidewalks to be con-

structed or repaired, shall make or repair such sidewalks at their own cost and charges, but if not done in the manner, and of the materials and within the time prescribed by the common council, the said council may cause them to be constructed, and assess the expenses thereof upon such lots respectively, and collect the same in the manner directed by the thirty-eighth and fortieth and forty-first sections of this act, and such assessments shall be a lien upon such lot in like manner as assessments under the said thirty-eighth, fortieth and forty-first sections.

Sec. 46. The common council shall have power to order the grading, paving, graveling, raising, closing, fencing, amending, cleansing and protecting any public square or area now, or hereafter laid out in said city, and to improve the same by the construction of walks and the rearing and protecting of ornamental trees therein, and to cause such part of the expenses thereof as they shall deem just, to be assessed and collected in the manner prescribed in the thirty-eighth, fortieth and forty-first sections of this act, for assessing and collecting expenses of improvements mentioned in these sections, and to cause the sale of any real estate on which such expenses are assessed, to be sold as provided in said thirty-eighth, fortieth and forty-first sections. But nothing herein shall empower the said common council to divest or obstruct the interest of any individual in or to any such square or area.

Sec. 47. The common council shall have power to establish and regulate a market or markets in said city, and to restrain and regulate the sale of fresh meats and vegetables in said city, to restrain and punish the forestalling of poultry, fruits, and eggs, and to license under the hand and seal of the mayor annually, such and so many butchers as they shall deem necessary and proper, and to revoke such license for any infraction of the by-laws and ordinances of the common council, or other malconduct of such butchers in the course of their trade.

Sec. 48. The common council for the purpose of guarding against the calamities of fire shall have power to prescribe

the limits in said city within which wooden buildings shall not be erected or placed without the permission of the said common council, and to direct that all or any buildings within the limits prescribed, shall be made or constructed of stone or brick with partition walls, fireproof roofs, and brick or stone cornices and eave troughs, under such penalties as may be prescribed by the common council, not exceeding one hundred dollars for any one offense, and the further sum of twenty-five dollars for each and every week any building so prohibited shall be continued.

SEC. 49. The common council shall have power to regulate the construction of chimneys so as to admit chimney sweeps, and to compel the sweeping and cleaning of chimneys, and to prevent chimney sweeps from sweeping unless licensed as they shall direct, to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers, and apparatus used in any building or manufactory, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous, to prevent the deposit of ashes in unsafe places, and to appoint one or more officers to enter into all buildings and inclosures to discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in safe condition, to require the inhabitants of said city to provide so many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in times of fire and to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fire, and to prevent the use of fireworks and firearms in said city, or any part thereof, to compel the owners and occupants of houses and other buildings, to have scuttles in the roofs and stairs and ladders leading to the same; to authorize the mayor, aldermen, fire wardens or other officers of said city, to keep away from the vicinity of any fire, all idle and suspicious persons and to compel all officers of said city, and other persons to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat; and generally to establish such reg-

ulations for the prevention and extinguishment of fires, as the common council may deem expedient.

SEC. 50. The common council shall procure fire engines and other apparatus used for the extinguishment of fires, and have the charge and control of the same, and provide fit and secure engine houses and other places for keeping and preserving the same, and shall have power to organize fire, hook, hose, bag, ladder and ax companies; to appoint during their pleasure a competent number of able and reputable inhabitants of said city, firemen, to take the care and management of the engines and other apparatus and implements used and provided for the extinguishment of fires, to prescribe the duties of firemen, and to make rules and regulations for their government, and to impose such reasonable fines and forfeitures upon such firemen for violation of the same, as the council may deem proper, and for incapacity, neglect of duty, or misconduct, to remove them and appoint others in their places. And the qualified electors of said city may, at the annual election to be held for said city, choose a chief engineer and two assistant engineers of the fire department, whose term of office shall be for one year, who with the other firemen, shall take the care and management of the engines and other apparatus and implements used and provided for the extinguishment of fires, and whose duties and powers shall be defined by the common council, *Provided, however*, that if the said qualified electors, shall for any reason fail to elect a chief engineer and two assistant engineers or either of them as aforesaid, or, if any of the offices shall become vacant in any way, then such vacancy may be filled by the common council in the same manner as other officers are appointed by them.

SEC. 51. The members of the common council shall be fire wardens, and shall have power to appoint such other fire wardens as they may deem necessary.

SEC. 52. The members of the common council, hook and ladder men, ax men, and firemen appointed by virtue of this act, shall, during their term of service as such, be exempt from

serving on juries in all courts, and in the militia except in the case of war, insurrection, or invasion. The name of each person appointed fireman, hook, and ladder men, or ax men, shall be registered with the clerk of the city, and the evidence to entitle him to the exemption as provided in this section, shall be the certificate of the clerk, made within the year in which the exemption is claimed.

SEC. 53. The present firemen of the town of Chicago shall be firemen of the city of Chicago, subject to be removed by the common council in like manner as other firemen of said city.

SEC. 54. Every fireman, hook and ladder man or ax man who shall have faithfully served as such in said city or town of Chicago, or both for the term of ten years, shall be thereafter exempt from serving on juries in all courts or in the militia, except in the case of war, invasion, or insurrection; and the evidence to entitle such persons to the exemption as provided in this section, shall be a certificate under the corporate seal signed by the mayor and clerk.

SEC. 55. The common council may authorize the mayor or any other proper officer of the corporation to grant license to tavern keepers, grocers and keepers of ordinaries or victualing houses to sell wines and other liquors whether ardent, vinous or fermented, in the manner prescribed by the laws of this state; and also to license billiard tables, hackmen, draymen, carters, porters, omnibus drivers and auctioneers, and to adopt rules and regulations for their government and to impose duties upon the sale of goods at auction, and may moreover direct the manner of issuing, countersigning and registering of such licenses, and may determine upon the fees to be paid for such licenses; not less than five nor more than fifty dollars to be paid to the city treasurer, and the sum to be paid to the mayor or other officer for granting such license shall not exceed one dollar; bonds shall be taken on the granting of such license, for the due observance of the regulations of the common council in respect thereto. They shall be filed and may be prosecuted, and the

money collected shall be applied in such manner as the common council shall direct.

SEC. 56. The common council shall have power to pass such ordinances as they shall deem proper for regulating or restraining tavern-keepers, grocers, keepers of ordinaries or victualing houses, hackmen, draymen, carters, porters, omnibus drivers and auctioneers.

SEC. 57. The said common council shall be and [are] hereby authorized to appoint annually, three commissioners as a board of health for said city, and the mayor of said city or presiding officer of the common council shall be president of said board; and the clerk of said city shall be clerk of said board, and shall keep minutes of the proceedings thereof. The said common council shall at their pleasure appoint a health officer annually, and as often as the office may become vacant; and may remove him at pleasure; whose duty it shall be to visit every sick person who may be reported to the board of health as hereinafter provided, and to report with all convenient speed his opinion of the sickness of such person to the clerk of the said board of health; and it shall be the duty of the said officer to visit and inspect at the request of the president of said board, all boats and vessels running to or being at the wharves, landing places or shores in said city, which are suspected of having on board any pestilential or infectious disease, and all stores or buildings which are suspected to contain unsound provisions or damaged hides or other articles, and to make report of the state of the same with all convenient speed to the clerk of the board of health.

SEC. 58. In case any boat or vessel shall be at (or) near any of the wharves, shores or landing places in said city and the said board of health shall believe that such boat or vessel is dangerous to the inhabitants of said city in consequence of their bringing and spreading any pestilential or infectious disease among said inhabitants, or have just cause to suspect or believe that if said boat or vessel is suffered to remain at or near the said wharves, shores or landing places, it will be the cause of

spreading among the said inhabitants any pestilential or infectious disease, that it shall and may be lawful for the said board by an order in writing signed by the president for the time being to order such boat or vessel to any distance from said wharves, shores, or landing places, not exceeding three miles beyond the bounds of said city within six hours after the delivery of such order to the owner or consignee of said boat or vessel, and if the master, owner, or consignee to whom such order shall be delivered shall neglect or refuse to comply therewith, the said president may enforce such removal, and such master, owner or consignee shall be considered guilty of a misdemeanor, and on conviction shall be fined a sum not exceeding two hundred and fifty dollars, and imprisoned not exceeding three months, in the jail of the county of Cook, by any court having cognizance thereof; the said fine when paid to be applied by the said board to the support of the treasury of the city of Chicago.

SEC. 59. Every person practicing physic in the said city who shall have a patient laboring under any malignant or yellow fever or other infectious or pestilential disease shall forthwith make a report thereof in writing to the clerk of said board of health, and for neglecting so to do shall be considered guilty of a misdemeanor, and liable to a fine of fifty dollars to be sued for and recovered in an action of debt in any court having cognizance thereof, with cost, for the use of the treasury of said city.

SEC. 60. All persons in said city not being residents thereof, who shall be infected with any infectious or pestilential disease, and all things within said city which in the opinion of said board shall be infected by or tainted with pestilential matter and ought to be removed so as not to endanger the health of the city, shall by order of the said board of health be removed to some proper place not exceeding three miles beyond the bounds of said city to be provided by the said board at the expense of the said city, and the said board may order any furniture or wearing apparel to be destroyed whenever they may judge it to

be necessary for the health of the city; and the said common council shall have power to erect one or more hospitals within the said city, and to control and regulate the same.

SEC. 61. All the estate, real and personal, vested in or belonging to or held in trust by the trustees of the town of Chicago, at the time this act shall take effect as a law, shall be and is hereby declared to be vested in the city of Chicago, and the said common council shall be bound and holden in the same manner, to all persons whomsoever, for all causes whatsoever as the trustees of the town of Chicago were bound and holden under and by virtue of any law of this state.

SEC. 62. The said common council are hereby authorized and empowered to borrow upon the faith and pledge of the city of Chicago, such necessary sum or sums of money, for any term of time, and at such rate of interest, and payable at such place as they may deem expedient, not exceeding one hundred thousand dollars for any one year, and to issue bonds of scrip therefor under the seal of the said corporation, signed by the mayor and countersigned by the clerk, such sum or sums so borrowed, to be expended and applied in the liquidation of the debts of the said city of Chicago, and in the permanent and useful improvements of the said city, and to pledge the revenues accruing to the said city for the repayment of the said sum or sums so borrowed with the interest upon the same.

SEC. 63. The said common council shall in all improvements strictly local in their character, such as improving streets, making drains and sewers, expend annually in each ward such proportion of the public moneys as shall correspond with the amount of the assessed value of the property in each ward, as exhibited by the last assessment roll.

SEC. 64. The mayor of the said city for the time being, shall have power to administer any oath required to be taken by any person under this act.

SEC. 65. Any person who shall hereafter be elected to the office of mayor or alderman in said city, may tender his resignation of such office to the common council of said city.

SEC. 66. The common council of the said city shall determine the rules of its own proceedings, and be the judge of the elections and qualifications of its own members, and have power to compel the attendance of absent members.

SEC. 67. The said common council are hereby authorized to levy an annual tax upon the owner of every dog kept or owned in said city by such person, not exceeding five dollars for every dog so owned or kept by such person.

SEC. 68. That the mayor of the said city of Chicago, shall have the same jurisdiction within the limits of the said city, and shall be entitled to the same fees and emoluments which are given by the laws of this state to the justices of the peace, upon his conforming to the requirements, restrictions and directions of the laws of this state regulating the office of justice of the peace.

SEC. 69. That there shall be established in said city of Chicago, a municipal court which shall have jurisdiction concurrent with the circuit courts of this state in all matters civil or criminal, arising within the limits of said city, and in all cases where either plaintiff and defendant or defendants, shall reside at the time of commencing suit, within said city, which court shall be held within the limits of said city in a building provided by the corporation.

SEC. 70. Said courts shall be held by one judge, who shall be appointed by joint ballot of both branches of the general assembly and commissioned by the governor, and shall hold his office during good behavior, and shall during his continuance in office, reside within the limits of said city, and shall receive a salary of one thousand dollars annually, payable quarter-yearly by the common council of said city, which salary shall not be diminished but may be increased by said common council, *Provided, always*, That the said judge may and shall be removed from office by the same causes and in the same manner that the constitution of this state provides for the removal of other judges.

SEC. 71. That the docket fees now authorized and required by law to be paid to the clerk of the circuit court shall be paid

in all suits arising in the said municipal court to the clerk thereof, and shall by him be paid to the city treasurer, out of which fees together with the other revenues of said city the salary of the judge and the other expenses of said court shall be paid.

SEC. 72. That the grand and petit jurors of said muncipal court shall be selected from the qualified inhabitants of said city by the common council thereof in the same manner as other jurors are selected by the county commissioners' courts of this state, which jurors shall possess the same qualifications and shall be liable to the same punishments and penalties, and have the benefits of the same excuses and exemptions as are imposed upon and allowed by the laws of this state to other jurors, and they shall take the same oaths, possess the same powers and be governed in all their proceedings as is prescribed in the case of other jurors by the laws of this state.

SEC. 73. That the said jurors shall be summoned by the high constable of said town, in the same manner as other jurors are summoned by the sheriffs of this state, and the said jurors shall be impaneled by the officers of the said municipal court, in the same manner as jurors of circuit courts; and the judge of said municipal court shall have all the powers concerning jurors that are given by the laws of this state to judges of the circuit courts.

SEC. 74. The jurors of said municipal court shall receive, out of the city treasury, the same compensation for their services as is allowed to jurors of the circuit courts, to be paid upon the certificate of the clerk of said municipal court, which certificate said treasurer shall file as his voucher.

SEC. 75. The judge of said municipal court shall hold six terms of said court in each year, for the transaction of civil and criminal business, and shall continue each term until the business before it shall be disposed of. The said terms shall respectively commence on the first Monday of January, March, May, July, September and November, *Provided, always*, That the common council of said city shall have power to increase

the number of the terms of said court or to alter the same by giving four weeks' notice thereof, in the corporation newspaper.

SEC. 76. The clerk of said court shall be appointed by the judge thereof, and shall be qualified and shall enter into bonds as clerks of the circuit court are now required to do, and shall receive the same emoluments as are allowed to the clerks of the circuit courts for similar services, which fees shall be collected in the same manner.

SEC. 77. There shall be chosen by the qualified electors of said city, at the same time and in the same manner as is provided in this act, for the election of mayor, one high constable, whose term of service shall be for one year, and until his successor shall be chosen and qualified, who shall have and exercise all the powers and functions as an officer of said municipal court within the limits of said city, as sheriffs are allowed to exercise within the limits of their respective counties, and shall be entitled to the same fees for his services.

SEC. 78. Said municipal court shall be a court of record and have a seal to be furnished by the common council, the process of said court shall be tested by the judge, and issued in the same manner as in the circuit courts, and shall be directed to the high constable of said city, to be executed within the limits of the same, but where the defendant or defendants or either of them may reside without the limits of said city, and in Cook county, the process shall be directed to the sheriff of said county, who shall execute the same and make return thereof to the clerk of said court.

SEC. 79. The said high constable shall before he enters upon the duties of his office, execute a bond with sufficient sureties payable to the city of Chicago, to be approved by the common council in the penal sum of ten thousand dollars, conditioned as the sheriffs' bonds in this state are required by law to be conditioned and may be prosecuted in the same manner in behalf of any person aggrieved, and the said high constable shall be required to take the same oath as the sheriffs of this state are required to take as far as is consistent with the provisions of

this act, before he enters upon the duties of his office, and the said high constable shall have power to appoint from among the city constables, one or more deputies who shall be qualified in the same manner, shall have the same powers under the said high constable, so far as is consistent with the provisions of this act, as deputy sheriffs have under the high sheriffs.

SEC. 80. All judgments rendered in said municipal court shall have the same lien on real and personal estate and shall be enforced and collected in the same manner as judgments rendered in the circuit courts of this state, and all appeals from any judgment rendered by the mayor of said city, or any justice of the peace within the limits of said city, shall be taken to the next circuit or municipal court, whose term shall first happen.

SEC. 81. The said common council shall have power from time to time to establish, alter, and regulate a tariff of fees to be allowed to the party or parties prosecuting or defending any suit or action in the said municipal court, to be taxed against the party failing in said suit, and to be recovered and collected in the same manner as fees are received and collected in the circuit courts of this state.

SEC. 82. All rules and proceedings of the said municipal court, not herein otherwise provided for, shall conform as near as may be to the rules and proceedings of the circuit courts of this state, and appeals from the municipal court to the supreme court, shall be taken and conducted in the same manner as is provided by the laws of this state, for the taking of appeals or writs of errors from the circuit court.

OF COMMON AND OTHER SCHOOLS.

SECTION. 1 (83.) That the common council of the city of Chicago shall, by virtue of their officers, be commissioners of common schools in and for the said city, and shall have and possess all the rights, powers and authority necessary for the proper management of said schools.

SEC. 2. (84.) The said common council shall have power to lay off and divide the said city into school districts, and from

time to time alter the same and create new ones as circumstances may require.

SEC. 3. (85.) The common council shall annually appoint a number of inspectors of common schools in said city, not exceeding twelve, and not less than five; and in case of a vacancy in the office, the common council shall, from time to time appoint others, which inspectors, or some of them, shall visit all the public schools in said city at least once a month, inquire into the progress of the scholars and the government of the schools, examine all persons offering themselves as candidates for teachers, and when found well qualified, give them certificates thereof gratuitously, and remove them for any good cause; and it shall be the duty of the said inspectors to report to the common council, from time to time, any suggestions and improvements that they may deem necessary or proper for the prosperity of said schools.

SEC. 3. (86.) That the legal voters in each school district shall annually elect three persons to be trustees of common schools therein, whose duty it shall be to employ qualified and suitable teachers, to pay the wages of such teachers when qualified, out of the moneys which shall come into their hands from the commissioner of school lands, so far as such money shall be sufficient for that purpose, and to collect the residue of such wages from all persons liable therefor. They shall call special meetings of the inhabitants of the district liable to pay taxes whenever they shall deem it necessary and proper, shall give notice of the time and place for special district meetings at least five days before said meeting shall be held, by leaving a written or printed notice thereof, at the place of abode of each of said inhabitants, make out a tax list of every district tax, which the inhabitants of said district may, by a vote of a majority present, direct at any meeting called as aforesaid for that purpose, which list shall contain the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name, which tax may be levied upon the real or personal estate of said

inhabitants; they shall annex to such tax list, a warrant directed to one of the city constables residing in the ward in which said district may be, for the collection of the sums in said list mentioned, and said constable shall receive five cents on each dollar thereof for his fees. The said trustees shall have power to purchase or lease a site for the district schoolhouse, as designated by a meeting of the district, and to build, hire or purchase, keep in repair and furnish said schoolhouse with necessary fuel and appendages, out of the funds collected and paid to them for such purposes.

SEC. 5. (87.) The trustees of each district shall at the end of every quarter make report to the school inspectors in writing, setting forth the number of schools within the district, the time that each has been taught during the previous quarter, and by whom, the number of scholars at each school, and the time of their attendance during the quarter, to be ascertained from an exact list or roll of the scholars' names to be kept by the teacher for that purpose, which list shall be sworn to or affirmed by said teacher.

SEC. 6. (88.) That it shall be the duty of the commissioner of school lands in Cook county to make semi-annually to the common council of said city a full and correct report, in such manner as they shall direct, of the state of the school fund arising from the sale or lease of school lands in township thirty-nine north, range fourteen east, in Cook county, with the interest accruing thereon.

SEC. 7. (89.) The school inspectors shall, quarterly, apportion said school moneys among the several districts in said city according to the number of scholars in each school therein between the ages of five and twenty-one, and also according to the time that each scholar has actually attended such school during the previous quarter, to be ascertained by the reports of said trustees and teachers.

SEC. 8. (90.) Whenever the said apportionment shall have been made, the school inspectors shall make out a schedule thereof, setting forth the amount due to each district, the per-

son or persons entitled to receive the same, and shall deliver the said schedule together with the report of the trustees and the lists or rolls of the teachers to the common council, and thereupon the said common council shall issue a warrant directed to the commissioner of school lands, to pay over such part of the interest of the school moneys of said township as shall be therein expressed, *Provided*, That nothing herein contained shall authorize the expenditure of the principal of any part of the said school fund.

Sec. 9. (91.) The freeholders and inhabitants of any school district in the said city, by a vote of two-thirds of the persons present and entitled to vote, at a meeting of such district, convened after notice of the object of such meeting shall have been published for one week in the corporation newspaper of the said city, and after said notice shall have been served on every such freeholder and inhabitant, by reading the same to him, or in case of his absence by leaving the same at his place of residence, at least five days previous to such meeting, determine either separately or in conjunction with any other school district or districts in the said city, to have a high school created for such district or districts, or shall so agree to unite for that purpose, and may vote a sum not exceeding five thousand dollars, to be raised for erecting a building for such high school. And on evidence of such vote, and of such notice having been published and served as above provided, being presented to the common council, they may in their discretion authorize the erecting of a high school in such district, or may authorize the several districts so agreeing, to be erected into one district, which shall thereafter form one school district, and all the property right and interest, of the several districts so united, shall belong to, and be vested in the trustees of said united districts, and the trustees thereof shall have all the powers of trustees of school districts, shall be elected in the same manner, and shall be subject to all the duties and obligations of trustees of common school districts.

SEC. 10. (92.) The common council shall annually publish on the second Tuesday of February, in the corporation newspaper of the city, the number of pupils instructed therein the year preceding, the several branches of education pursued by them, and the receipts and expenditures of each school, specifying the sources of such receipts and the object of such expenditures. That the act entitled an act to incorporate the inhabitants of such towns as may wish to become incorporated, approved on the 12th day of February 1831, and so much of an act entitled an act for the incorporation of fire companies, approved the 12th day of February 1835, and so much of an act entitled an act to change the corporate powers of the town of Chicago, and so much of an act entitled an act to amend an act entitled an act to change the corporate powers of the town of Chicago, approved January 15 1836, and all other acts and parts of acts as are inconsistent with, and repugnant to the provisions of this act, in so far as relates to the said city of Chicago, be and the same are hereby repealed.

(Approved March 4, 1837.)

An Act Supplemental to an Act to Incorporate the City of Chicago.

Section 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That so much of the said (act) as permits the licensing of billiard tables in the said city be repealed, that all persons residing in the said county of Cook, may at their option have recourse to the municipal court of said city, and the said municipal court shall have concurrent jurisdiction with the circuit court in all matters arising within said county, that only so much of an act entitled an act to incorporate the inhabitants of such towns as may wish to be incorporated, approved on the 12th day of February 1831, shall be repealed as is inconsistent with the provisions of the act incorporating the said city of Chicago, and only in so far as the same relates to the said city of Chicago.

(Approved 4th March, 1837.)

An Act Amending the First City Charter.

July 21, 1837, an act was passed giving to the judge of the Chicago municipal court the powers of the judge of the circuit court.

The University of Chicago
FOUNDED BY JOHN D. ROCKEFELLER

77

STUDIES IN POLITICAL SCIENCE

THE CHARTERS
OF THE
CITY OF CHICAGO

BY
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PART II
THE CITY CHARTERS
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BY THE SAME AUTHOR

MUNICIPAL ECONOMY IN PRUSSIA. *The Nation, 1881.*

THE RELATION OF THE MODERN MUNICIPALITY TO THE GAS SUPPLY. *American Economic Association, 1886.*

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CHAPTER V.

DISCUSSION OF THE EARLY CHARTERS.

Introduction.

Before taking up the changes which were made in the city charter of 1837 up to the time of the General Consolidation Act of 1851, it may be well to cast a brief glance by way of comparison at the provisions of the three early charters, and at certain of the actions taken by the town and city authorities under those charters. This will enable us to understand more completely than would otherwise be possible the meaning of these important provisions.

A.

THE GENERAL ACT OF 1831—THE FIRST TOWN CHARTER.

The examination of the provisions of the general act, as printed in the first part of this work, will reveal the conception of the proper sphere of town government as it existed in the minds of the men of that era.

It will be seen, in the first place, and will strike one as a matter of much interest, that there was practically no place in the life of the town organized under this general law for the town meeting. All the corporate powers of the community were vested in the board of trustees, which was, indeed, by the express words of the law itself, declared to be a body corporate.

These trustees were not, in any sense, held accountable to the town meeting. They made no report to the town meeting as such. The town meeting had no authority to discuss their actions, no authority to dictate to them what they should do, no authority even to advise them.

The ordinance power, so far as granted, was vested entirely and completely in the town board of trustees. The sole function of the town meeting as a permanent constituent in the

government was in connection with the election of the board of trustees. The town meeting was, it is true, the original means through which the community expressed its desire to become incorporated, and the first town meeting for this purpose could be called by any persons choosing to put up a sign to that effect, in at least three of the most public places, and at least ten days before the meeting.

This town meeting, which consisted of all the male white persons, twenty-one years of age and upward, who had been residents in the town for six months, or who were freeholders, was required by the law to organize by the election of a president and a clerk. The sole business, however, before such meeting, was the simple one of voting yes or no upon the question whether the town should organize under the law and become an incorporated town with all the privileges and duties of such an organization.

In case the vote was in favor of incorporation, the president and the clerk were to certify under their hands the number of votes cast for and against incorporation, and deliver such certificate to the board of trustees, who were then to be elected. It was necessary, however, that two-thirds of the total number of voters present should be in favor of incorporation, before it was considered as adopted by the meeting.

The clerk of this meeting was directed to call a second town meeting, giving at least five days' previous public notice, for the election of five trustees. After these trustees had been elected and had organized by the election of a president, all further functions were vested in them alone. They were required to file a statement concerning the fact of incorporation with the county commissioners' court, were required to take an oath of office to discharge their duty according to their best abilities, and constituted from that time on, practically, the corporation.

There is no suggestion in all this form of organization of any recognition of the right of the people to adopt their own by-laws and ordinances under which they should be governed, the feature so characteristic of the New England town meeting.

On the contrary, it was a representative government, pure and simple.

Another interesting feature, which strikes one upon the most cursory examination of the law, is the very narrow range of powers accorded to this board of trustees. The purpose of the act is indicated by the expression "incorporation for the better regulation of their internal police." It is declared that the moneys of the town should be used only for those objects which, by this act, are placed under the control and jurisdiction of the board of trustees, and for none others. It is also declared that the trustees may make such ordinances, not inconsistent with the laws or the constitution of the state, as they shall deem necessary in order to accomplish certain definite ends, which were then enumerated.

In other words, the authority of the town is not only limited and delegated, but, one may say, limited to the express grants given by the law itself.

It is true that the content of this provision can be fully appreciated only when one takes into connection with it the fact that the courts of that time construed very strictly the authority granted such towns, and in general the authority granted to all forms of local government. The mere phraseology of the act itself might have allowed a much wider extension of authority than the courts, under their narrow principles of construction and interpretation, actually permitted.

No general ordinance power was vested in these towns. They were simply authorized to pass ordinances in order to carry out the specific functions assigned to them. In this attitude the courts were justified by two considerations: regard for the authority of the state on the one hand, and the rights of the private individual on the other. They held, on the one hand, that no presumption could be accepted in favor of recognizing any original power of action on the part of the community, as this might, to an undue extent, allow the building up of a certain local jurisdiction, which might thus impair the general state jurisdiction. On the other hand, they considered that the

private citizen had a right to protection for his person and property against any exercise of authority on the part of the local community which was not distinctly permitted or enjoined by the general state law.

We shall see, when we come to enumerate the concrete powers vested in the board of trustees, of how limited a character the jurisdiction of these towns was.

The board of trustees had certain authority in regard to its own constitution and powers, and certain duties were enjoined upon it in regard to these matters, which it may be worth while to glance at.

They were five in number, elected for the term of one year; were required to keep a journal and record of all their proceedings; their sessions must always be public. They were authorized to fill vacancies in their own number happening through resignation or death, and they were required to provide for the election of their successors by calling a town meeting before their time expired, of which at least ten days' public notice should be given. No person could be a member of the board of trustees except a resident and freeholder in the town. The quorum was the ordinary majority generally required in similar bodies. Publication for at least ten days before they went into effect was the necessary condition of the validity of all ordinances.

An examination of the authority conferred upon the board of trustees will show that it extended in general to the police regulation of the following subjects: nuisances, gambling and other disorderly conduct, horse-running, licensing public shows, markets, public wells, streets and alleys, sidewalks, fire protection, and determining the boundaries of the town.

This list represents, of course, a very limited set of functions, but the authority of the board, even in these matters, was still further limited by certain positive restrictions. They could not build sidewalks unless they assessed one-half the expense on the adjacent property. They could not extend the boundaries of the town beyond one square mile.

Their authority was still further limited by the very narrow

financial powers vested in the board. There was, in the first place, no authority to borrow money, which of itself limited very decidedly any tendency on the part of the board to invest money in extensive public improvements. In the second place, while they had the general taxing power, it was limited to the collection of a tax on the real estate of the town not exceeding one-half of one per cent. The town had, it is true, other sources of revenue. It could charge a license fee for public shows. It might charge fees in connection with the markets. It was authorized to exact three days' labor from all male residents in improving the roads and streets. It had the power of special assessment in regard to sidewalks, already mentioned. It was authorized to inflict fines up to $5 for each offense for the violation of its ordinances. But it is evident that the income from all these sources of revenue was, after all, very limited, and thus the real extent of the powers granted by the state in the enumeration of the functions which the organized town might assume, was actually far less, owing to this financial limit, than one would have supposed from a mere examination of the provisions of the law.

The burden of some other public functions might also be assessed upon the community, as the town board, in its ordinances concerning protection against fire, might require the citizens to provide certain means of extinguishing fires at their own expense, and also to take part actively in the extinguishment of fires, and thus it might avoid the necessity of providing for a public fire company, whose expenses were to be defrayed from the public treasury.

It is interesting to note that the taxing power was conferred upon this corporation, even though only a limited one, and that it was given authority to collect its taxes by distress and sale—this in spite of the opposition to granting any such power which had been long and bitter, in this country as well as in England.

The other provisions of this act do not call for any special discussion, as they relate chiefly to administrative matters, like the duty to keep an account current of the fiscal concerns of the

corporation, which should be open to such as might desire to inspect the same.

Provision was made in the law for giving up the rights of an incorporated town by the consent of two-thirds of the qualified voters of the town at any annual election. It was made the duty of the town to keep in repair all public roads passing through the town for a distance of one mile from the center thereof. In return for this the inhabitants of incorporated towns were not required to work upon public highways, except as described above, namely, three days in each year.

The board of trustees had the ordinary authority to appoint and prescribe the duty of any officers necessary to carry into effect the powers vested in the town. No enumeration of the necessary officers is given, but the clerk, tax collectors, and treasurer are mentioned incidentally. The trustees were required to demand bonds from the tax collector and the town treasurer. In case the town desired to give up its charter, all town property vested in the county commissioners for the benefit of the county.

One cannot understand fully the actual scope of the powers granted to such towns without glancing at the large number of functions, oftentimes considered local, with which they had nothing whatever to do. The whole judicial system, of course, was entirely beyond their reach. Even the fines which the board of trustees might impose for violation of their ordinances had to be collected before a justice of the peace, with whose appointment and whose powers the town had no concern. Nor did the town have any control over schools, the administration of which was provided for by a system to which the town had practically no relation. Nor was the town held responsible for the support of its poor, nor, indeed, permitted to undertake such a function. It had no authority to provide for a system of public water-works or of public lighting. Nor might the town determine the conditions of exercising the right to vote in the town meeting. The law itself determined this, and practically, therefore, determined who constituted the electoral body.

This law reveals, therefore, the very narrow scope of municipal authority which it was thought wise to invest in the smaller towns of the state. A glance at the method adopted to insure compliance with the law will also be of interest. Certain duties were imposed upon the board of trustees. In regard to most of these duties, however, there was no direct way of supervising the manner in which the trustees performed them. There was no administrative authority anywhere in the state whose function it was to oversee or control, in any way, the manner in which these local authorities performed the duties imposed upon them. There was, in a word, only the judicial remedy for a private citizen in case of any neglect on the part of the town board, and such a remedy was, of course, in many cases extremely insufficient, so far as affording any positive check upon the actions of the board was concerned.

No method was provided, for example, of ascertaining whether the town actually contained the 150 inhabitants which the law declared necessary before it could be incorporated.

There is no doubt that, if we had a complete history of the actions of these town boards, so far as they were organized under this general law, we should find that they had exercised many powers which the law, strictly construed, would not have conferred upon them, and many powers concerning which no express authority of any kind was given.

Thus the law confers upon the trustees the right to levy a tax upon the assessed valuation of the real estate, but no provision was made in this act for such assessment, and the question would arise immediately whether the town authorities were required to take the assessment, which was made for state purposes and county purposes, or whether they might appoint their own assessors, and make their own valuation. As a matter of fact, the town of Chicago appointed an assessor almost immediately who made the assessment for town purposes. The town of Chicago also established a free ferry across the river, though no authority for such action was to be found in the law, and in general the incomplete check which the system of judicial

supervision of towns establishes enabled the town authorities to exercise many powers which were not conferred by the law, and which, therefore, under the theory adopted by the courts as to the nature of municipal charters, were not conferred at all.

It will be noticed, further, that no authority was conferred upon the town trustees to grant, purchase, receive, or hold property, real or personal, either within or without the town. No authority was conferred upon them to establish or control the cemeteries, or to provide a general system of sewerage and drainage, though the right to dig drains would be perhaps necessarily involved in the right to repair the streets. No general authority over the sanitary conditions of the town was given except that involved in the power to prevent and remove nuisances. Although this act permitted the trustees of the towns organized under it to appoint such officials as were necessary to enable it to perform its functions, the conception of the powers of the town in this respect was also rather narrow, as is evidenced by the fact that an act was passed January 31, 1835, authorizing the trustees of towns organized under the act of 1831 to appoint constables. It is probable that some towns had already appointed such officers, but that, owing to a doubt as to their authority under the law, it was deemed desirable to set it completely at rest by an express provision.

So far as Chicago was concerned, no provision had been made for the organization of schools in the township in which it was situated, but on February 6, 1835, an act was passed providing for the organization of schools in that township. The most efficient check, perhaps, upon any undue extension of town authority was to be found in the unwillingness of the people to burden themselves in any way to provide the funds for the exercise of broad public functions, and in the fact that little could be done in the way of enlarging such functions without interfering at some point with the rights (either as to person or property) of private parties who were always ready to contest in the courts any interference with their sphere of liberty.

B.

THE SPECIAL ACT OF 1835 — THE SECOND TOWN CHARTER.

The town of Chicago grew rapidly after its organization under the general act of 1831, and the attempt of the trustees to keep pace in their legislation with the growing demands of the village soon made the fact very evident that the powers given under the general law were not sufficient to enable the trustees to perform properly all the public duties which the growing population and the increasing complexity of village life made desirable.

In less than two years, therefore, after the organization of the town under the general law, agitation was started to obtain a general charter from the legislature conferring additional powers upon the town. It is interesting to note that the town itself, through its representatives, applied for this act of the legislature, and that, so far as one can infer from the evidence at hand, the act was passed by the legislature exactly as it was drafted by the local people representing the wishes of the village. This, so far as I have been able to study the history of early town, village, and city legislation, was true of all the special charters. They were not imposed upon the village by the legislature, but were granted to the village upon its own request along the lines laid down by the village representatives, and oftentimes in accordance with the draft actually submitted by the community itself. This tendency, therefore, to interfere in local matters by the granting of special charters did not have its origin, as is oftentimes represented, in the desire of state politicians to interfere in local matters, but grew out of a positive desire, and, generally speaking, of an earnest request, on the part of the locality for such special privileges as the charter contained.

The first special charter, therefore, obtained by the town of Chicago was the act of the legislature passed February 11, 1835, going into effect the first Monday in June of the same year and entitled "An Act to Change the Corporate Powers of the Town of Chicago."

A comparison of this special act with the general law will

show the points at which the local authorities felt that their powers should be extended in order to enable them to cope with the local necessities of the growing town.

One can see from the very phraseology of the act that it was a special law adapted to the needs of this particular community. Thus it determined the boundaries of the town, describing its area in terms of congressional sections, including sections 9 and 16, north and south fractional section 10, and fractional section 15, in township 39 north, of range 14 east of the third principal meridian, excepting a portion of south fractional section 10, which was occupied by the United States.

It further divided the town into three districts; that lying south of the Chicago river and east of the south branch constituting the first district; that lying west of the north and south branches of said river constituting the second; and that lying north of the Chicago river and east of the north branch constituting the third district; and a striking testimony to the local feeling of the place was furnished by the provision that the taxes collected within the said districts should be expended under the direction of the board of trustees for improvements within the said districts respectively.

A further evidence of the local and specific character of this charter is to be found in the power vested in the board of trustees over ferries and wharfing privileges.

The new board of trustees had more extensive authority than the old board in the matter of accepting property which might be given to the town, and of selling or leasing property belonging to the town. The board of trustees was increased from five to nine. The electors were those persons residing within said town who were qualified to vote for representatives to the legislature. The members of the board of trustees themselves were to be at least twenty-one years of age, citizens of the United States, and inhabitants of said town and freeholders within it.

A curious reflection of the state and federal constitutions is to be found in section 5, which authorizes the board of trustees to appoint their own president, and all other officers of the

board; and to be judges of the qualifications, elections, and returns of their own members. It appears also in the definition of the quorum as a majority, and in giving to a smaller number the power of adjourning from day to day and compelling the attendance of absent members in such manner and under such penalties as the board might provide, and in the authority to determine their own rules of proceedings.

We find in this new charter a certain number of officers expressly named, though the power to appoint such other officers as they may deem good for such town is vested in the board. The officers especially mentioned are the clerk, street commissioner, treasurer, assessor and collector of taxes, town surveyor, measurers of wood and coal, measurers of lumber, measurers and weighers of grain.

The enumeration of the general powers vested in the board indicates not only an addition to the number of such powers, but a broader conception, and a consequently more general definition, of powers which were granted to the trustees under the general law. They were in general:

1. To make regulations to secure the general health of the inhabitants (a positive and broad addition).

2. To prevent and remove nuisances; establish night watches (a new authority).

3. To erect lamps in the streets, and lighting same (a new authority).

4. To regulate and license ferries within the corporation (a new authority).

5. To lease the wharfing privileges of the town, giving to the owner or the owners, occupant or occupants, of the lots fronting the river the preference of such privilege (a new authority.)

6. To erect and keep in repair bridges (a new authority, though it had been exercised by the town board).

7. To provide for licensing, taxing, regulating theatrical and other shows, billiard tables, and other amusements (an extended authority).

8. To restrain and prohibit gaming houses, bawdy houses, and other disorderly houses (an extended authority).

9. To build market houses and establish and regulate markets (an extended authority).

10. To open and keep in repair streets, avenues, lanes, alleys, drains, and sewers, and to keep the same clean and free from incumbrances (an extended authority).

11. To establish and regulate a fire department, and provide for the prevention and extinguishment of fires (an extended authority).

12. To regulate the storage of gunpowder and other combustible materials (a new authority).

13. To erect pumps and wells in the streets for the convenience of the inhabitants.

14. To regulate the police of the town ; to regulate the election of town officers, and to fix their compensation ; to establish and enforce quarantine laws (a new authority).

15. And, from time to time, to pass such ordinances to carry into effect the ordinances of this act, and the powers hereby granted, as the good of the inhabitants may require, and to impose and appropriate fines and forfeitures for the breach of any ordinance, and to provide for the collection thereof.

Additional powers were granted in regard to the improvement of streets, and the process of opening streets through land belonging to private parties was more accurately described. Indeed, it is a question whether any power was given under the general law to condemn property for the purpose of opening streets. The language in the first law speaks simply of keeping open and in repair the streets and alleys and the public roads passing through such town.

The second charter conferred upon the board of trustees the right to levy and collect a special tax on the owners of lots in any street or parts of a street, according to their respective fronts, for the purpose of grading and paving the sidewalks in said street, provided that the owners of two-thirds of the real estate on such street or parts of street make application for such action.

The board of trustees received in the new charter authority to open streets, grade and pave them, by making adequate compensation to private owners.

The jury, consisting of twelve freeholders of said town, were directed to take into consideration the benefits, as well as the injury, which may accrue, and estimate and assess the damages upon this basis. They were required, moreover, to estimate the benefit which other persons—adjacent property owners—would receive, and the amount which they should contribute toward the cost of opening the road. If the total cost exceeded the amount assessed in benefits, the difference could be paid from the town treasury.

The process of selling the land for taxes was, furthermore, described in some detail, and the conditions under which deeds might be given for such property.

Authority was, moreover, given to the town trustees to order the formation of fire companies, which should be formed by voluntary enlistment, and whose members should be exempted from jury and military duty.

It will be seen that the special act constituting the second charter of the town of Chicago extended very materially the authority of the town trustees. By inference, it gave the trustees authority to purchase grounds without the town for burial purposes. But it still maintained the principle that the authority of the board was a strictly limited and delegated one, and that it had only such authority as was given by the act.

The revenue powers of the town were not essentially increased under the second charter. Its power of taxation was limited to one-half of one per cent. upon the assessed value of all real estate. The act recognized the right of the town to make its own assessment by providing for an assessor of taxes. An additional source of income was to be found in the right to lease the wharfing privileges and to license ferries within the town. The broad acceptance of the principle of betterment in the opening of streets conferred practically an additional revenue power upon the trustees, and the authority given to establish

volunteer fire companies enabled the town to provide for a very necessary function in a very inexpensive way.

The history of the ordinances passed by the town during the next two years furnishes examples of the exercise of a wide range of authority, wider, perhaps, than the new act justified in some directions.

The action of the town in regard to its wharfing privileges led to an act of January 15, 1836, limiting its power over such privileges and reducing its tax power from one-half to one-fourth of one per cent. upon the assessed valuation. This act testified to the dissatisfaction of the inhabitants at the liberal way in which the trustees had interpreted their authority, and their feeling that it was easier to secure an act of the legislature, limiting the power of the board to tax, than it was to keep the board within the same limit by the exercise of their political control, involved in the possible election of an economizing board.

On January 18, 1836, an act was passed by the legislature incorporating the Chicago Hydraulic Company. And it is an interesting commentary upon the way in which public and private functions were confused and exercised by the legislature, that this act incorporating a private company gave it authority to lay water mains through the streets of Chicago, without any reference to the consent of the trustees or of the community. There is no evidence that there was any objection on the part of the community, or on the part of the board of trustees, to this granting away to a private company the right to use the public streets. The specific granting of this right by the legislature in the incorporation act of the company implied that no power was given to the board of trustees of the city of Chicago to grant such privileges over the streets of the town.

On February 10, 1837, the legislature granted a lot to the town of Chicago for burial purposes, a lot which was outside of the boundaries of the town, as constituted by the act of 1835. It was provided that it should never be used for any other purposes. Subsequently, an act of the legislature permitted this

burial lot to be dedicated to park purposes, and it became a part of the present Lincoln Park.

There is no evidence in this second charter of any wider functions permitted to the town in the matter of schools and water supply, and the support of the poor, and the exercise of authority over the courts, than was given to the trustees under the general act.

The town in the meantime grew rapidly, and the inhabitants became convinced that it should have a larger range of authority than was conceded in the existing charter. As a consequence of this agitation, the details of which are mentioned in a preceding part of this work,[1] a new charter, known as the first city charter, was granted by the legislature.

C.

THE FIRST CITY CHARTER OF CHICAGO.

The first city charter of Chicago was in the form of an act of the legislature passed March 4, 1837, to go into effect the day after the first election of city officials which was to be held some time between the passage of the act and on or before the first day of the following June. The city authorities set the election for May 2, 1837, and from that time we may therefore date the existence of the first city charter. This charter, like the preceding one, reveals the fact in almost every paragraph that it is a special charter.

The first section defines the boundaries of the city, and shows a very great extension of the boundaries from those indicated in the charter of 1835. The area under the act of 1835 had been two and two-fifths square miles; under the new charter it was more than ten square miles.[2]

The act declared that the inhabitants of this city shall constitute a corporation. It will be remembered that under the preceding acts the corporation consisted of the trustees. The

[1] *Cf.* pp. 22 and 23.

[2] See p. 23 of this volume.

usual powers were granted to this corporation, such as the right to sue and be sued, etc., and also take, hold, purchase, and convey such real and personal estate as the purposes of the corporation may require.

It will be noted that, while the preceding act limited the right of the town to hold property to such as might be acquired within the limits of the town, except cemeteries, the present act conferred upon the corporation the right to hold such real and personal estate, whether within or without the city, as the purposes of the corporation may require. The significance of this provision is seen in section 60 for example, where the city is authorized to provide some place, not exceeding three miles beyond the bounds of the city, to which all persons, not being residents of the city, infected with any infectious or pestilential disease might be removed. The power to acquire real property beyond the bounds of the city has been much extended of late in the case of other large American cities, so as to enable them to protect their water supply, provide parks, etc.

This charter contains many provisions which were little more than copies of ordinances which the city council might have passed and changed at pleasure, if they had not been incorporated within the law. Thus the city was divided into six wards, whose boundaries were determined.

The legal relation of the city to the state under this charter was exactly the same as the town under the preceding charters. That is to say that it had only such authority as was given to it by this charter. Its powers were limited and delegated, and, generally speaking, in all matters affecting the rights of persons or property the courts were inclined to give a very strict definition and limitation to city powers, permitting only such authority to be exercised as was plainly delegated — one might almost say, as was expressly delegated. This limitation was evident, in the first place, by the fact that the charter as a whole, aside from the provisions organizing the municipal government, was in essence simply a delegation of powers. In section 28 the language is that the common council shall have power to establish ordinances

"for the following purposes," which seems to imply, of course, that it cannot establish them for any other purposes. In section 30 provision is made that the council may establish such ordinances as may be necessary to carry into effect the powers given to the said council by this act. If the courts had been willing to give the same broad interpretation to this provision that the Supreme Court of the United States has given to a somewhat similar one in the constitution of the United States in regard to federal power, there is no doubt that the city might have exercised much broader powers than was possible under the decidedly narrower view which the courts have always adopted in their construction of this clause, as it relates to municipal governments.

A study of the act will show that a very broad range of powers was given to the city in the matter of organizing and administering its own government. The act mentioned, it is true, many officials, but gave the city authority to establish other offices and to prescribe the duties of their incumbents; and even where the duties of individual officers were prescribed, they were little more than a copy of what would in any case have been contained in city ordinances, and the city was permitted to add to these duties to almost any extent.

As stated above, this charter, although a special act of the legislature, was really drafted by the citizens of Chicago themselves; drafted on their own initiative and submitted to the legislature, which accepted it almost without change.[1] It is interesting to note that in this self-proposed charter the citizens did not make any provision for any direct participation in the government of the city through the medium of town meetings. It was a strictly representative government; all authority was vested in the public officials; no subject was submitted to popular vote; no town meetings were called to hear the reports of city officials, or to discuss or criticise their actions. Neither referendum nor the initiative was recognized in any form in the city at large. The only recognition in this first city charter of

[1] *Cf.* p. 23 of this volume.

any direct participation of the people in the government of the city was to be found in sections 86 and 91, where a certain authority was given to the voters, freeholders, and inhabitants of any school district to direct the levying of taxes within that district for school purposes.

It will be noted that Chicago received its town and first city charters at a time before the introduction of the system of township government into the state of Illinois, and the only units of government in the county of Cook when Chicago received its first city charter were the county, the city, and the school district.

It will be interesting to observe the functions assigned in this new city charter to the mayor of the city. It will be remembered that the only officer even remotely corresponding to the modern idea of mayor to be found in the town governments was the president of the board of trustees. He was elected by the board of trustees from their own body, and had, generally speaking, only such authority as they chose to delegate to him in that position. Thus the president of the village board under the town charters emerges into the mayor under the city charter — an official who seems to have a more independent, and, therefore, possibly a more influential, position, owing to the different method of his election. How far this is true, however, can be determined only by an examination of the powers conferred upon him.

The city charter declares that the mayor shall be elected by popular vote. He must be a freeholder, and shall be chosen for one year by the qualified electors, and shall serve until his successor is chosen and qualified. In case of vacancy by death or resignation, a special election is to be held. He is made a member of the common council, and is given authority to preside at the meetings when present, but may vote only in case of a tie. He may call meetings of the council whenever, in his judgment, it is necessary, and he is to receive a salary of $500. He may exercise the authority of a justice of the peace, upon qualifying in accordance with the state law relating to such officials, and may commit vagabonds, rogues, stragglers, idle or

disorderly persons to the house of correction. He is permitted to administer the oath of office required of officials in the city government. He is made *ex officio* the president of the board of health. It is made his duty to sign warrants for the appointment of clerk, treasurer, city attorney, police constables, collectors, street commissioners, city surveyors, and all persons appointed to fill vacancies in elective offices. He is given certain formal administrative functions. Thus he is required to sign warrants for the collection of taxes, though the presiding officer of the council *pro tempore* may perform this function in the mayor's absence. The mayor is required to sign warrants for tax sale deeds and accept notice in writing of all appeals from the orders of the common council to the courts; to license butchers in accordance with the rules prescribed by the council; he may also be authorized by the council to issue licenses to tavern-keepers and other persons whose business is regulated or taxed by means of licenses; and he may be authorized by the common council to keep away from the vicinity of a fire all idle or suspicious persons.

It is plain that this official resembles the modern mayor of an American city in very few respects except the name. He is a mere figurehead. His duties are confined to merely formal and chiefly clerical matters. He has no appointive power, no veto power, no power of supervising the administration, no responsibility for any other public official than himself; in a word, a very slightly developed president of the village board of trustees, resembling, in some respects, in his impotence the vice-president of the United States, or the lieu tenant-governor of one of the states, upon which office his own is evidently to some extent modeled. He cannot even be said to have, in some respects, as much power as the president of the town trustees, since the latter, owing to his election by the board itself, must have commanded their confidence to such an extent as to be able to exercise a very pronounced influence upon the course of town government; but the mayor, being elected by popular vote, has no such relation to the council, while his limited

range of functions prevents him having any vigorous initiative or power of control. At the same time we must recognize that in this separation of the mayor from the council involved in providing for his election by popular vote we now have a possibility of that further development which was soon to begin, namely, as the council government became more unsatisfactory and finally broke down, it was an easy and natural transition to raise the supervisory powers in the mayor, and ultimately, by increasing his authority, to secure a certain centralized responsibility just in proportion as the lack of responsibility in the council government became one of the most serious evils.

The city council is, generally speaking, the sole organ under this charter through which the city expresses and carries out its will. Other officials are to a large extent not merely the agents but the mere creatures of the common council, subject not only to its general regulation, but to its specific commands, so far as they are not in conflict with the charter or the other higher laws of the state or nation.

The council is composed of the mayor and twelve aldermen, two elected in each of the six wards, except that until 1839 there should be only ten, the third and fifth wards respectively being entitled to only one alderman each. These aldermen must be freeholders in the city and residents of the wards which they represent, and are chosen by the qualified voters of the respective wards. They are chosen for a term of one year, all vacancies being filled by special election. The council is renewed integrally, that is, the term of office of all the members expires at the same time. The quorum consists of a majority of all the members elected. The council may select its own presiding officer in the absence of the mayor. It is required to hold stated meetings, the time of which it shall determine itself by ordinance, though the mayor or any two of the aldermen may call special meetings at their discretion. In imitation of the more important legislative bodies, it is given authority to determine the rules of its own proceedings, to be judge of the elections and qualifications of its own members, and to compel the attendance of absent members.

Any alderman may commit rogues, vagabonds, stragglers, idle or disorderly persons to the bridewell. The aldermen are *ex officio* fire wardens during their term of service, and are exempt from serving on juries or in the militia. They are ineligible during the period for which they are elected to hold any office the emoluments of which are paid from the city treasury, or paid by fees directed to be paid by any act or ordinance of the common council, or to be directly or indirectly interested in any city contract.

The city council is thus the all-important element of city government under this first city charter. It is almost the sole organ of administration, as well as legislation. It has comprehensive powers in the matter of organizing and shaping the city government, and prescribing the duties of officers in general and in detail, and issuing the specific demands to such officials to carry out its will.

It is not necessary here to go into detail as to the powers granted to this body. They will be found enumerated in full in the text of the charter given in the first part of this volume.

But we may note two or three important matters in which this charter differs from preceding and from subsequent charters. Extensive authority is given to the city council over the matter of elections within the limits prescribed by the charter itself. It may adopt a system of election by ballot instead of the *viva voce* method prescribed by the general state law.

The council is given authority to appoint nearly all the important officials, determine their compensation, and remove them at pleasure; it is given very extensive powers to regulate by license a large number of callings usually subject to such regulation in English and American communities. It may enforce its ordinances by the infliction and collection of fines; may carry out improvements of streets by the method of special assessments; may establish building lines, and prescribe building regulations; may establish and maintain fire departments; may establish rules of health and quarantine, erect and support hospitals, and regulate and control the schools of the city within

the limits set by the charter. This control of the schools is a distinct and important addition to the functions of the city council, as compared with the village board of trustees. The council is authorized to appoint inspectors of schools who are to examine the schools and report to the common council. It may divide the city into school districts within which the legal voters are to elect school trustees. These trustees may employ teachers, who have been examined and qualified by the board of inspectors; and have authority to build, equip, and maintain the schoolhouses. There is no authority conferred upon the common council, however, by this charter to levy any city school tax, and the school funds in the hands of the county commissioner of school lands are to be distributed among the school districts in proportion to the number of pupils at school between the ages of five and twenty-one.

Authority is also given to the school district in the city by a vote of two-thirds of the persons present at the meeting of such district properly called to establish a high school.

The charter provides for the establishment of a municipal court having concurrent jurisdiction with the circuit court of the state in all matters civil or criminal arising within the limits of said city. The powers, functions, and procedure of said court are described in some detail in the charter. The common council is given authority to establish and regulate a tariff of fees to be allowed in the said municipal court.

No power is given to the city by this charter to establish any general system of water-works, though it was given power to establish and maintain public wells; nor was the city given authority to establish any system of public lighting, such as gas-works, though it was empowered to establish and maintain public lamps.

The provisions of the charter as to the civil service of the city are worthy of a moment's attention. The following officials are mentioned in the charter in one paragraph or another: mayor, clerk, treasurer, assessor, collector, inspector of elections, attorney for the city, police constables, street commissioners,

city surveyors, clerk of the market, pound masters, porters, carriers, carters, packers, beadles, bellmen, sextons, common criers, scavengers, measurers, weighers, sealers of weights and measures, gaugers, keeper of the house of correction, damage commissioners (road viewers), firemen, chief engineers, engineers of the fire department, fire wardens, commissioners of health, health officers, municipal judge, clerk of the municipal court, high constable, inspectors of common schools, trustees of common schools, and teachers. Of these, the mayor, assessors of taxes, one in each ward, the high constable and school trustees, three in each school district, and the chief engineer of the fire department, with his two assistants, were to be elected by popular vote. The city judge, who was to name his own clerk, was to be appointed by the legislature. All other officers were to be appointed for a term of one year by the city council, and were made subject to its orders, both in general and in detail, within the provisions of the law, and were subject to removal by the council at its pleasure, except the county judge, who held office during good behavior, and his clerk, who held office during the judge's pleasure. The first four classes named were to be freeholders. The city council might establish other offices, prescribe their duties, and appoint their incumbents. The duties of many of these officials were prescribed in the charter in some detail, being the usual duties assigned to officers of that name in other municipalities of the time. Many of them were required to give bonds for the faithful performance of their duties, and one may say that in general the community relied much more upon the security for good performance offered by the bond than upon any vigorous or efficient supervision either by the council or by its appointees.

Every person appointed to any executive or administrative office was required to take the oath of office prescribed in the constitution of the state, and any person who refused to qualify for the office to which he had been elected or appointed, within five days after notice of his election, forfeited the sum of $10.

It is impossible to understand fully the exact range of powers conferred upon municipal authorities without a careful examination of those relating to taxation and other forms of revenue. No matter how extensive the powers granted to the municipality, it is certain that the range of powers actually exercised will be very small if ample revenue powers have not been granted at the same time.

It was characteristic of the city government of Chicago at this time, as of nearly all other American and English cities—indeed, of continental cities as well—that the expense of a large proportion of the functions of the city government was defrayed by the collection of fees for the performance of real or fictitious services by public officials for private individuals. The form of the fee was also used as a means of taxation, as in the license fee, and of regulation, as in the market fees and similar charges.

The revenue system of the city of Chicago was further characterized by the peculiar feature of carrying out public improvements, such as opening and paving streets, building sewers, etc., by means of a method of taxation known as special assessment; that is, levying the expenses for making such public improvements upon abutting property in proportion to some real or fancied benefit conferred upon such property.

We may discuss the revenue system, therefore, under several distinct heads as follows:

1. Taxes.—The city is authorized to levy annually a tax of one-half of one per cent. upon the assessed value of real and personal property within the city. It is authorized to levy a tax, not exceeding $5, for each and every dog kept or owned by any person in the city. The school trustees are authorized to collect a school tax of such amount as the inhabitants of the district liable to pay taxes might vote.

2. Compulsory Service.—The city council is authorized to require every male resident of the city over the age of twenty-one years to labor at least three days in each and every year upon the streets and alleys in said city, but this labor service may be commuted by a payment in cash of one dollar for every

day required. The qualified inhabitants of the city are subject to jury duty in the municipal court, in accordance with the rules applied to other courts in the state. The city may require all citizens to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and require the inhabitants to provide so many fire buckets, and in such manner and time, as they shall prescribe.

3. Special Assessment. — The common council is given exclusive power to regulate, amend, and clear the streets and alleys of said city. In laying out, altering, widening, and contracting streets they must assess the damages and expenses of said improvement on the real estate benefited thereby. The manner in which this should be done, so as to protect the rights of private parties, is described in some detail in the charter. It is given further authority to pave the streets, and to construct drains and sewers, by assessing the expenses of such improvements in proportion to the benefit upon the real estate in any ward of the city, provided that such assessment shall not exceed two per cent. per annum on the property assessed. The expense of making sidewalks shall be assessed directly upon the abutting property.

This principle of making public improvements by special assessment on the so-called betterment principle was of vital importance to the city of Chicago in its early days. It would not have been possible to have made the improvements necessary in the city upon any other basis, and, while the system has been full of inequalities, it has been, speaking generally, the only feasible system for a city growing up under such conditions as characterized Chicago.

4. Fees. — The expenses of justice are very largely provided for by a system of court fees, including the justice fees and the constable fees. In the case of the municipal court these fees are turned directly into the city treasury, which becomes responsible for the salary of the judge and other expenses of the court.

Licenses, partly of a regulative, partly of a revenue character,

are demanded in connection with a large number of different callings. Thus the city council is authorized to require licenses from tavern-keepers, grocers and keepers of ordinaries or victualing houses, to sell wines and other liquors, whether ardent, vinous, or fermented; of hackmen, draymen, carter, porters, omnibus drivers, auctioneers, and owners of billiard tables. The license fees may be fixed at any sum not exceeding $50. The mayor, or other officer, granting such license may charge a fee of one dollar for issuing the same.

The common council is authorized to locate and manage markets, in connection with which it may, of course, charge a fee; may require every merchant to have his weights and measures sealed by a city sealer, and charge a fee for the same; it may regulate gauging, the place and manner of weighing and selling meat; of selling pickled and other fish, and of selling and measuring wood, lime, and coal, and appoint suitable persons to superintend and conduct the same, and may charge a fee for their service; and so of other subjects mentioned in the charter.

5. Fines and Penalties.— The city is authorized to prescribe penalties not exceeding $100 for any one offense for violating the city ordinances.

6. Loans.—Authority is given to the common council to borrow money not exceeding one hundred thousand dollars in any one year, and to pledge the revenues, accruing to the city for the repayment of the said sum. There had been a long and interesting discussion as to the desirability of conferring this power upon the city, and the suggestion made by the city in its original draft involved more extensive borrowing powers than the legislature finally granted.

7. Gifts, Grants, etc.— The state of Illinois granted to the city of Chicago, at various times, lands for public purposes from the canal lands which the government of the United States had given to the state in furtherance of the project of a canal between Lake Michigan and the Illinois river. The government of the United States had, moreover, granted the sixteenth section

in each township for the use of the schools. This would have been one of the most important sources of revenue to the schools of Chicago, if the people of that time had been far-sighted enough to retain the ownership of the whole section, instead of selling most of it, as they did, at an early date.

An interesting limitation upon the common council, in its expenditures of public moneys, is found in section 63, which declares that in all improvements strictly local in their character, such as improving streets, making drains, sewers, the city shall expend annually in each ward such proportion of the public moneys as shall correspond with the amount of the assessed value of the property in each ward, as exhibited by the last assessment roll.

It will be seen that the sources of income open to the city were not at this time very fruitful. The tendency to keep the assessment of personal and real estate as low as possible acted to diminish the revenue from taxation. The strenuous resistance on the part of the people from whom licenses might be required to the ordinances requiring such licenses was sufficient to keep the revenue from this source at a comparatively low point. But, after all, in this system of revenue are to be found the main features of the system in force at present in the city of Chicago. The same general tax upon real and personal property; the same general method of making public improvements by the system of special assessment; the same system of using the license fee as a means of taxation, carried of late to an extraordinary extent, are characteristic features of today's scheme.

It will be seen how during the next fifteen years one feature or another of the charter was altered; how the municipal court was abolished; how the school authority of the city was enlarged; how the ordinances of the city multiplied in number and increased in scope, until, when the city of 4,000 had grown to the city of 30,000, it was felt necessary to gather up all these laws and ordinances into one collection, and consolidate in one act the various provisions of the charter of 1837, the various alterations

made in that charter, the various changes which were still to be made, and the various ordinances which it was desirable to incorporate in such charter—all resulting in the consolidating act of 1851, known as the second city charter of Chicago.[1]

[1] *Cf.* Laws and Ordinances of the City of Chicago. Chicago, 1851.

CHAPTER VI.

Laws Affecting the Charter Powers of the City. 1838–51.

February 15, 1839: *An Act to repeal part of an act to incorporate the city of Chicago.*

This act abolished the municipal court in the city of Chicago provided for in the city charter of 1837, and all matters connected therewith. All cases are to be transferred to the circuit court of the county of Cook. The high constable provided for in the city charter was required to make returns of all processes of summons to the said circuit court. Thus ended the attempt to establish a municipal court in the city of Chicago. The statement is made that the court was abolished in deference to the demand by debtors who felt that they were hardly pressed by the executions issued by this court, and who believed that they would have better treatment at the hands of the circuit court. The justice accorded by the municipal court had been too prompt, too cheap, and too just to satisfy public opinion of the time!

March 1, 1839: *An Act relating to common schools in the city of Chicago, and for other purposes.*

This act repealed sections 85 to 91 inclusive of the charter act of 1837, being the closing sections of those relating to common and other schools. It left intact sections 83 and 84, constituting the common council *ex-officio* commissioners of common schools, and giving the said common council authority to divide the city into school districts.

The act vested in the city of Chicago full control over the school lands, and school funds of township 39 north, range 14 east, permitting the common council to sell and lease such lands on such terms and at such times as such common council shall deem most advantageous. It provided that the proceeds

arising from such sales should be added to the school fund of the township; that nothing should be done to impair the principal of said fund or to appropriate the interest accruing from the same to any other purpose than the support of public schools; and that districts in the township, and without the limits of said city, shall be entitled to the same benefits and advantages from said fund as they would without passage of this act.

It is made the duty of the commissioners of school lands for Cook county to hand over all the funds belonging to township 39 to the common council of the city of Chicago. This act conferred upon the common council the important additional power not contained in the charter act of raising a sufficient sum of money, by taxing the real and personal estate in said city, to build schoolhouses; to establish, support, and maintain common and public schools, and to supply the inadequacy of the school fund for the payment of teachers; to purchase or lease sites for schoolhouses, and to erect, hire, or purchase buildings suitable for such schoolhouses, and to maintain them. The taxes for this purpose to be assessed and collected in the same way as taxes for other purposes.

The common council is, moreover, given authority to fix the amount of compensation to be allowed to teachers in different schools; to prescribe the schoolbooks to be used and the studies to be taught in the different schools; and to pass all such ordinances and by-laws as may be necessary to carry into effect the foregoing powers.

The common council is directed to appoint seven persons for inspectors of common schools, three persons in each district to be trustees of common schools in and for said district, whose powers and duties shall be prescribed by the common council.

It will be seen that this act changed materially the authority of the city council over the schools. It practically constituted it the school board, with full power to organize, establish, and regulate the schools, and support them by common taxation out of the common fund. It will be noticed that there is no

limit upon the taxing power of the city for school purposes. This act simply declares that the common council shall have power to raise "all sufficient sum or sums of moneys."

MARCH 2, 1839: *An Act to regulate tavern and grocery licenses.*

This act repealed all laws permitting county commissioners' courts to issue license for tavern-keepers. It then proceeded to determine the conditions on which such licenses were to be granted in the future:

1. Applicant shall pay a license fee of not less than $25, nor more than $30, in the discretion of the court.

2. He shall give bonds for conducting an orderly house.

3. The president and trustees of incorporated towns shall have the exclusive privilege of granting license to grocers (that is, saloons) within their incorporated limits, but all moneys received for licenses shall be paid into the county treasury.

4. A majority of the local voters in any county justice's district, incorporated town, or ward of any city, may petition the county commissioners' court not to grant license to sell liquor within their bounds, and in such cases no license shall be issued until a majority of the legal voters in like manner petition for a granting of said license.

FEBRUARY 20, 1841: *An Act to amend and expand the election law.*

This law declared that all white male inhabitants above the age of twenty-one years, and having resided in the state six months next preceding the election, shall enjoy the rights of an elector, whether such elector has been naturalized or not.

This law seemed to repeal the provision of section 9 in the city-charter act of Chicago, so far as it declared that the person voting should be a householder within the city, or shall have paid a city tax of not less than three dollars within the twelve months next preceding such election.

If this interpretation be correct, the above law repealed all property qualifications for voting in the state of Illinois.

FEBRUARY 23, 1841: *An Act in relation to incorporated towns and cities in this state.*

This act provided for the repeal of all laws which exempted any real or personal property in any town or city in the state from paying a county or state tax, and provided that all incorporated cities and towns shall pay a state and county tax on all the property, real and personal, situated in such towns and cities. Also that any part of said acts which requires a property or tax qualification, either for the eligibility of the officers or for the voters, be repealed; provided that such towns and cities as shall be exempted from the payment of the county tax in consideration for the support of the paupers therein be excepted from the operation of this act.

MARCH 1, 1841: *An Act to amend an act to incorporate the city of Chicago.*

This act repealed as much of the fourth section of the charter as provided that the mayor, aldermen, and assessors of the city of Chicago shall be freeholders in the said city. It also repealed section 9 entire, relating to the qualifications of voters; so much of section 26 as allowed the mayor a salary of $500 per year, and section 52, which exempted members of the common council and firemen from jury and militia duty.

It then provided that every person voting for mayor, aldermen, assessors, and other officers of said city shall be an actual resident of the ward in which he votes, and shall have resided in said city at least six months preceding the election, and shall be twenty-one years of age. It then repeals so much of the forty-first section of the city charter as provides that all sales of real estate for taxes and assessments shall be made by the city attorney, and so much of the section as provides that he shall receive one dollar if proceedings in the sale of lots be stopped before the sale is made, and two dollars if the premises are sold; and provides in its place that the collector shall make all sales and receive the same fees and compensation as are allowed county clerks for similar services. It then repeals section 77 of the

city-charter act providing for the election of a high constable, and provides that a city marshal shall be annually elected at the election for mayor and aldermen, whose duty shall be prescribed, and whose salary shall be fixed by the common council. It then repeals so much of the fourth and fifth sections of the same act as provides for the election of one assessor from each ward in the city, and authorizes the common council to appoint one assessor, with the privilege of increasing the number to three at its pleasure, whose duties are to be the same as are prescribed in the charter act. It then provides that tax-sale deeds shall be *prima facie* evidence in all controversies and suits in regard to certain matters described in detail.

It provides that the common council shall have power and authority to inflict such penalties, not inconsistent with the constitution and laws of the state, as they may deem necessary and expedient for the non-compliance with such ordinances as they may pass in relation to the regulating, restraint, or licensing of the sale of liquors. The council is given full and ample powers over the streets and alleys and public buildings of said city, and may authorize, if they deem it necessary, the erection of any market in any of the streets of said city, and to regulate the markets so located by ordinance, with such penalties as they may see proper to affix.

It will be seen that this is a considerable extension of the power of the city to fix the fines and penalties for violation of city ordinances, the maximum penalty having been fixed in the original charter at $100 for each offense.

The act then vests in the common council the power of taxation upon all improvements on canal lots. This provision seems to have arisen from some dispute as to the power of the city to tax improvements on the lots purchased or leased from the canal commissioners.

It then proceeds to declare that in section 35 wherever the word "or" is used it shall have the same significance as the word "and," thus giving the city power to levy a tax upon real and personal estate instead of merely upon one or the other, as had been claimed by certain tax dodgers.

The law then provides that in place of section 41 of said act, the state revenue law approved February 26, 1839, shall be made applicable in all respects as to the right of redemption of lands sold for taxes.

JANUARY 21, 1843: *An Act to amend the charter of the city of Chicago.*

By this act the west half of section number 20, in township number 59 north, range number 14 east, is struck out of the city limits of Chicago.

FEBRUARY 8, 1843: *An Act to authorize the city council of the city of Chicago to straighten Madison street in the said city.*

This act authorized the common council to lay out and make Madison street, in the city of Chicago, eighty feet wide, and for this purpose granted to the said city so much of the south side, or end of the lots and blocks of land in the original town of Chicago, supposed to be thirty feet in depth and extending the whole length of the south side of the original plat of said town, for the use of the street, as may be required to make such street eighty feet wide.

Nothing in the act was to be considered to give the city power to take private property without just compensation. This act is a practical amendment to section 38 of the city charter (last paragraph), which provided that no power was given by virtue of the charter act of the city of Chicago to alter, change, lay out in lots, or lease that part of the town of Chicago originally laid out by the commissioners of the Illinois and Michigan canal on section 9, township 39 north, range 14 east, as lies between the river and North and South Water streets, or as is comprised within said streets; or perhaps it was in amendment of the underlying thought that the city could not take property belonging to the state under the power of eminent domain.

MARCH 3, 1843: *An Act to legalize the recorded plat of school section addition to Chicago, and for other purposes.*

Authority is given by this act to the recorder of the county

of Cook to accept such directions from the common council of Chicago as it may issue in regard to remedying any omission or defect in the maps or plats of the school section recorded in his office.

The act further provides that the city of Chicago may prescribe penalties of fine and imprisonment for violation of its ordinances; provided that such fine shall not exceed $100, and the imprisonment sixty days.

It provides, further, that the cemetery lots sold by the city of Chicago for private places of burial shall be exempt from execution and attachment. It strikes out from the corporate limits of the city of Chicago the following lands: the southeast and the northeast quarters of the southwest quarter, the southwest and the northwest quarter of the southeast quarter of section number 5, township 39, range 14 east, and of the west half of the northeast quarter of section number 8 in township 39, range 14 east.

MARCH 4, 1843: *An Act supplementary to an act entitled an act to open a new street in the city of Chicago, and for other purposes.*

This act provided that the act entitled an act to open a new street in the city of Chicago shall not be construed to affect in any way the rights of the state or of the canal fund to the strip of land lying south of North Water street and the Chicago river, commonly known as the wharfing privileges.

Nothing in the said act shall affect the right of the state or city to widen the river by excavating the banks, or affect in any manner the title of the state or canal fund to the land or lots lying south of said street and between it and the river.

No trace of the act to which this is an amendment, entitled an act to open a new street in the city of Chicago, can be found.

MARCH 4, 1843: *An Act to prevent cities or towns from issuing warrants to circulate as money.*

This act provided that in cases when any city or town should be indebted to any person or persons for any amount whatsoever, only one warrant or voucher for the amount allowed to one

individual at one time should be drawn; that no warrant or voucher on the treasurer should be drawn to any other person than the one to whom the same may be due, nor shall the treasurer pay any warrant or voucher drawn on him unless presented by the person in whose favor such warrant is drawn.

The city of Chicago and other cities had issued warrants which were intended to circulate as money, although no authority for that act seems to have been conferred by the charter of 1837, and it was thought necessary to pass this law in order to prevent the continuance of the habit.

FEBRUARY 25, 1845: *An Act limiting the power of taxation in the city of Chicago.*

This act provides that hereafter the city of Chicago shall have the power and authority to levy a tax annually of 2½ mills on the dollar for city purposes, and one mill on the dollar for school purposes, and that no higher tax shall be levied by said city for the above purposes.

MARCH 1, 1845: *An Act to incorporate the Lake Michigan Hydraulic Company.*

This act incorporated a company to introduce the water of Lake Michigan into the city of Chicago on the north side of the Chicago river, forbidding it to extend its field of operations to the south side. The act conferred upon this company the right to lay pipes or tunnels along the public highways, streets, alleys, sidewalks of the city of Chicago, without any reference to the consent or regulation of the city council.

MARCH 3, 1845: *An Act to define and establish boundary lines of State street in the city of Chicago.*

This act provides that a strip of land sixty feet wide from the east side of section number 9, in township number 39 north, of range number 14 east, commencing at the southeast corner of said section, thence sixty feet west, thence north, parallel with the north and south line of said section to the south bank of

the Chicago river, be declared a public highway, and a part of State street in the city of Chicago.

This act practically made State street subject to change only with the consent of the legislature.

FEBRUARY 16, 1847: *An Act supplementary to the act to incorporate the city of Chicago.* Approved March 4, 1837.

This act made many changes in the powers and functions of city officials, and defined more exactly the authority of the city in regard to certain important matters.

It defined the boundaries of the city as follows: All that part of township 39 north, range 14 east of the third principal meridian which lies north of the north line of sections 27, 28, 29, and 30 of said township, and of the east half of section 33 in township 40, north of said range 14, and fractional section 34, in said township 40.

It divided the city of Chicago into nine wards instead of six, as in the original charter. It provided that two aldermen should be elected in each ward for the term of two years, and that they should be so classified that one alderman should be elected each year in each ward. In case of vacancy an election should be held for the portion of the unexpired term. Aldermen were conservators of the peace in their respective wards. It is made the duty of the mayor to give bonds, and be qualified as a justice of the peace of Cook county.

It is provided that in case of a vacancy in the office of the mayor, or of his being unable to perform the duties of his office, the common council shall appoint by ballot one of their number as acting mayor to preside at their meetings, and the alderman so appointed should be vested with all the powers to perform all the duties of the mayor, except in regard to qualifying as a justice of the peace, until the mayor shall resume his office or the vacancy be filled by a new election.

Important changes are made in the method of selecting officials. It is provided that the city attorney, city treasurer, city collector, and city surveyor shall be elected at each annual election

by the legal voters. Secondly, there shall be elected at each election one street commissioner and one assessor by the voters of the first, second, third, and fourth wards; one street commissioner and one assessor by the voters of the fifth and sixth wards; and one street commissioner and one assessor by the voters of the seventh, eighth, and ninth wards. These assessors are required to meet, and revise, and correct their assessment rolls before the same shall be returned to the council, as required by law. It is provided, further, that at each annual election one police constable shall be chosen in each ward of the said city by the legal voters thereof, provided that the common council may appoint any additional number when the public interest or any emergency may require it.

The city marshal is vested with all the power and authority of a constable.

Any person appointed to any office by the common council, or elected to any office by the people, may be removed from such office by a vote of two-thirds of all the aldermen of the city authorized by law to be elected. But no officer shall be removed except for cause, nor unless the accused shall first be furnished with the charges against him, and shall be heard in his defense. Any vacancy in an elective office shall be filled at a special election ordered by the common council within ten days after the happening of such vacancy, and in the meantime the council may make an appointment *pro tem.*

The council may fill any vacancy in an office whose incumbent is appointed by the council. To the council is given the authority to define the powers and duties of all officers, whether elected by the people or appointed by the common council, and to fix the compensation of such officers.

Every male resident of the city over twenty-one and under sixty shall be required to labor upon the streets and alleys of the city three days in each year. He may commute this labor at the rate of fifty cents for every day he is so bound. The street taxes shall be expended in the several wards where the persons paying the same may reside. In case of any default in service

or cash payment the common council may sue for and collect the sum of $3 for every person so in default.

The common council shall have no authority to remit fines imposed for the violation of the ordinances of the city, except by vote of two-thirds of all the aldermen authorized to be elected. Nor shall anything in this act contained, or in that to which it is supplementary, or in any act relating to said city be so construed as to oust any court of jurisdiction to abate and remove nuisances in the streets or in any other parts of the said city by indictment or otherwise.

Secondly, no vote of the common council shall be reconsidered or rescinded at a special meeting of the said council, unless at a special meeting there be present as large a number of aldermen as were present when such vote was taken.

It will be seen that these provisions, as well as the provisions providing for a popular election of certain officials previously appointed by the council give evidence of a growing dissatisfaction with the way in which the council had been performing its duties.

The act now proceeds to alter very materially the method by which the common council is authorized to take lands for the purpose of laying out, making, assessing streets, alleys, etc.

Whenever the common council desires to take lands for such purposes, it must apply in writing to some court of record in the county of Cook for the condemnation of such land for such purposes. The court is authorized to appoint three commissioners to examine and report upon the necessity of such appropriation and of the value of such land assessed, and apportion the said damages and expenses. The usual safeguards for the person whose property is to be taken are included in this section.

It will be seen that this is a substantial limitation upon the power of the council in such matters, since the charter act permitted an appeal to the courts only upon the question of power, and not on the expediency of such proposed action.

The judge is authorized to refer the assessment back to the commissioners, and if in his opinion such improvement is not

required by the public interests, he may set the entire proceedings aside.

All main drains and common sewers constructed by the common council shall be considered to belong to the city, and any person draining into them shall pay the city a proportional part of the charge of making and repairing such main drains, or sewer, to be ascertained and determined by a committee of the common council.

Exclusive power to erect or construct, or to permit the erection or construction of, float or draw bridges over the navigable waters within the corporate limits of said city is vested in the common council, and various penalties are imposed for injuring such bridges.

Authority is given to the common council to cause any street or highway in the city to be planked, and to build or construct a breakwater along the shore of Lake Michigan; to construct or authorize a tunnel or tunnels under the Chicago river, and to cause the expenses of either of these said improvements to be assessed and collected in the manner prescribed in sections 38, 39, 40, and 41 of the charter act, except that the expenses of the breakwater shall be paid by assessing the same on the city at large.

Authority is vested in the common council to pass such ordinances as they may think proper and necessary to preserve the harbor, and in general to pass all necessary police ordinances and harbor regulations. The word "harbor" is to be defined so as to include so much of Lake Michigan as lies within a distance of one mile of the shore thereof into the lake, and the Chicago river and its branches, including the piers. The common council is authorized to lease for any term of years, not exceeding ten, lot number 5 in block number 4, lot number 9 in block number 50, and lot number 6 in block number 55, all in the original town of Chicago, heretofore donated to the city of Chicago for the use of schools, under an act to provide for the dedication of lands situate on canal lands for public purposes passed in 1839. It was also given authority to sell certain of

these lands, provided that the proceeds should be used for the support of the common schools in the city.

Provision is made for knocking off to the city any property sold at public auction for taxes, in case no bid shall be made. The common council is vested with authority to regulate, restrain, or prohibit the keeping of billiard tables, under the usual penalty, and to restrain and prohibit the running at large of horses or hogs within the city, under a penalty not exceeding ten dollars for each offense.

Authority is given to the city to compel any person found guilty of violating the ordinances, for which the punishment is fine and imprisonment, or either, to work out such fine or to work during such imprisonment upon the streets of the city at the rate of fifty cents per day, and ordinances imposing penalties shall take effect one week after publication.

FEBRUARY 23, 1847: *An Act in relation to that part of township 39 north, range 14 east, which lies south of the corporate limits of the city of Chicago.*

This act provides that that portion of township 39 lying south of the corporate limits of the city of Chicago shall constitute a separate school district, and confers upon the legal voters of said district authority to levy and collect school taxes.

This practically removed the control of school matters in this region from the discretion of the city of Chicago, in which it had been hitherto vested, and required the city to pay over to said district its fair proportion of the school funds in the hands of that city.

FEBRUARY 27, 1847: *An Act to adjust and settle the title to the wharfing privileges in Chicago, and for other purposes.*

This act undertakes to settle as speedily as possible the difficulties and controversies which have arisen between different persons and corporations claiming the title to the so-called wharfing privileges, that is, those portions of land or parts of South Water, North Water, and East Water streets, in the original town of Chicago, on the sides of said streets nearest the river

which lie eighty feet distant from the lines of the lots laid out on the sides of said streets farthest from the river.

Authority is given to the common council to compromise, adjust, and determine all conflicting rights and claims under the restrictions of the act. It authorizes the filing of a bill in chancery by all the parties claiming the rights to these privileges.

The act further gives to the common council full authority to widen the Chicago river and the branches thereof, as they may deem proper and necessary for the commercial business of the said city, by cutting away the whole or any parts of the streets or lots on the banks of said river or its branches, and adopting the method for the assessment of damages and benefits prescribed by the original charter act for the opening of the streets and alleys, saving, of course, the right of private owners to adequate compensation.

FEBRUARY 28, 1847: *An Act to amend an act entitled an act to incorporate Lake Michigan Hydraulic Company.*

This act gives to the Lake Michigan Hydraulic Company, before referred to, the right to use any surplus steam or other power which they may create or form to carry on the manufacture of flour, lumber, woolen or cotton goods, or such other kinds of mechanical or manufacturing business as they may deem proper, and to purchase the necessary lands and thereon to erect all necessary buildings, machinery, improvements for the prosecution of the same. No trace of making this company dependent in any way for its powers on the consent of the city is discoverable.

MARCH 1, 1847: *An Act to maintain and establish common schools.*

This was a general act in relation to the establishment and maintenance of common schools. All these general acts affected, more or less, the powers of the city of Chicago in school matters, since the school authorities in the city of Chicago were obliged to comply with the provisions of the general law wherever their special law did not except them from its provisions.

FEBRUARY 9, 1849: *An Act to enable the inhabitants upon the line of the Galena and Chicago Union Railroad to construct the same at the expense of the property to be directly benefited thereby.*

This act authorized the city of Chicago to assist in the construction of the Galena and Chicago Union Railroad by subscribing for it such amount of capital stock as it might think expedient, provided that such subscription shall not exceed three per cent. on the assessed value of the real estate, according to the last assessment thereof preceding such subscription for the purpose of assessing taxes thereon.

APRIL 13, 1849: *An Act to incorporate the Chicago Gas Light and Coke Company.*

This act provided for the incorporation of the Chicago Gas Light and Coke Company. It gave this corporation the right to construct gas-works and manufacture gas, and lay pipes for the purpose of conducting the gas in any of the streets or avenues of the said city; and it conferred upon this company the exclusive privilege of supplying the city of Chicago and its inhabitants with gas for the purpose of affording gas and light for the period of ten years.

It is significant that this privilege is not made dependent on the consent of the city authorities.

APRIL 16, 1849: *An Act to provide for township and county organization whenever a majority of voters of such county at any general election shall so determine.*

This act provides that the county commissioners' court or the county court shall at the next general election cause to be submitted to the voters of the county the question of township organization under this act. The clerk of the county court shall enter an abstract of the returns of said election, and record the same at length upon the record of the county court of the county, and certify the same to the general assembly at its next session thereafter. If it shall appear by the returns of the said election that a majority of all the votes "cast for or against township

organization" have been cast for township organization, then the county so voting in favor of adoption shall be governed by and subject to the provisions of this act on and after the first Tuesday in April, 1850.

The county court or county commissioners' court shall at its next session appoint three commissioners, residents of the county, to divide the county into towns or townships. The commissioners shall proceed to divide such county into towns by making as many towns as there are townships according to the government surveys. Where fractions of townships are caused by the county lines not being in accordance with the surveyed townships, then the commissioners may attach such fraction to adjoining towns, where the number of inhabitants or the amount of territory joined be not sufficient for a separate town. Where the surveyed township shall have too few inhabitants for a separate organization, then such township may be added to some adjoining town, or such township may be divided between two or more towns for the time being. The commissioners so appointed shall make a written report of their proceedings, giving the names and bounds of each town, and present such report to the clerk of the county court on or before the first day of March in the year 1850.

The clerk of the county court shall thereupon make out notices for each town, designating a suitable place for holding the first town meeting of such town on the first Tuesday in April, 1850.

The above act was passed in pursuance of the clause of the constitution of Illinois which went into force April 1, 1848, and which prescribed that the general assembly should provide by a general law for the township organization under which any county may organize whenever a majority of the voters of such county at any general election shall so determine.

The next general election following the township act above referred to occurred on Tuesday, November 6, 1849. Cook county voted to adopt the township system. The county commissioners' system was therefore abolished, and the county court

administered the affairs of the county until the following April. It appointed three commissioners to lay out the county into towns, and on the following second day of April, 1850, town officers were elected, and the township system went into full operation.

The citizens of Chicago seemed to have been pretty generally in favor of having the county organized under the township system. The Chicago *Daily Democrat* of Tuesday, November 6, 1849, urged its readers not to forget to vote for township organization. The Chicago *Daily Democrat* of Monday, February 11, 1850, announced that the commissioners who had been appointed by the county court, according to the act of the legislature for organizing townships, had organized the following townships in Cook county, and established their boundaries as annexed. The following list contains the names of the townships, twenty-seven in all: Barrington, Palatine, Wheeling, Newfield, New Trier, Hanover, Shaumburg, Elk Grove, Maine, Niles, Ridgeville, Jefferson, Monroe, Taylor, Summit, Lake, Blue Island, Trenton, Palmyra, Orland, Bremen, Thornton, Bloom, Rich, South Chicago, West Chicago, and North Chicago — South Chicago, that portion now known as the south division; North Chicago, that portion now known as the north division; West Chicago, that portion now known as the west division.

The commissioners observed the lines of congressional townships as far as possible; sometimes combining two in one, as Blue Island, which included township 37, ranges 13 and 14 east; sometimes making up a township of many fractions, as, for example, Lake. Barrington included township 42, range 9 east; Palatine, township 42, range 10 east, etc.

The Chicago *Daily Democrat* of Saturday, February 16, 1850, prints a transcript of the official record defining the boundaries of the towns in the city:

North Chicago, bounded on the north by Ridgeville, on the east by Lake Michigan, on the south by Chicago river and West Chicago, on the west by West Chicago and Jefferson. It comprises all that portion of fractional township 39 north, range

14 east, lying north of main Chicago river and east of the north branch; also sections 19, 20, 29, fractions 33, 28, 21, and all that portion of sections 30, 31, and 32 lying east of the north branch of the Chicago river of the fractional township 40 north, range 14 east.

West Chicago, bounded on the north by North Chicago and Jefferson, on the east by the north and south branches of the Chicago river, on the south by the feeder to the Illinois and Michigan canal, main canal, and the town of Lake, and on the west by Taylor and Jefferson. It comprises all that portion of the fractional township 39 north, range 14 east, lying west of the two branches of the Chicago river north of the feeder to the canal; also the east one-half of township 39 north, range 13 east, except that portion of sections 35 and 36 lying south of the canal; and also all that portion of sections 30, 31, and 32 of fractional township 40 north, range 14 east, lying west of the north branch of the Chicago river.

South Chicago, bounded on the north by the Chicago river and West Chicago, on the east by Lake Michigan, on the south by the town of Lake, and on the west by the south branch of the Chicago river and the canal. It comprises all that portion of fractional township 39 north, range 14 east, lying between the south branch of the Chicago river and Lake Michigan, continuing up the south branch to where the feeder to the canal intersects with said river, then along the south side of said feeder and canal through sections 36 and 35 of township 39 north, range 13 east.

It is interesting to note that disputes began almost immediately about the meaning of this law. The question was raised as to whether the justices and the constables elected November 6, 1849, would hold over after the April election of the justices and constables in the new townships.

The *Democrat*, in its issue of February 20, 1850, advises all officers to hold over, even if there should be two sets of officials, until the matter shall be legally settled by the courts.

The first election of town officers of Chicago and in Cook

county in general was held Tuesday, April 2, 1850. The following officers were to be elected in each town: a supervisor, town clerk, assessor, collector, overseer of the poor, two justices, two constables, as many overseers of the highways as there were road districts in the town, as many pound masters as the town chose to elect, and three commissioners of the highways.

The first meeting of the board of supervisors of Cook county was held April 30, 1850. Its first annual report was dated March 15, 1851, and printed in the Chicago *Daily Democrat* April 7, 1851. The law of 1846 provided simply for a single opportunity to vote on the question of township organization on the first Tuesday in November, 1849. In April, 1851, the first general law providing for a vote upon the adoption of the system of the township organization at any general election was enacted.

Owing to some dissatisfaction in the county, a second vote on township organization was demanded, and taken April 6, 1852, after a lively discussion as to the merits of the system.

The *Daily Democrat*, in its issue of April 6, 1852, took strong ground in favor of continuing township organization, although a letter printed in the issue of April 5 claimed that nearly all the money raised by the highway commissioners was devoted to the expenses of the board rather than improving the highways.

In an editorial in the *Democratic Press* of April 6, 1853, the statement is made that there was scarcely any interest manifested in the town election which had just occurred; that scarcely anyone attended the polls; and it proceeded to call the attention of the people to the serious dangers in such neglect of the township functions.

It would seem that the whole matter of township organization in a city the size of Chicago (at that time probably over 30,000) had been but little considered. There is no evidence that the township organization in the city of Chicago has ever served any useful purpose whatever, while the mere enumeration of the officials to be chosen in each town is sufficient to show how superfluous the whole business was.

NOVEMBER 5, 1849: *An Act for the incorporation of the Chicago Orphan Asylum.*

This act provided for the incorporation of the Chicago Orphan Asylum; for the support and maintenance of orphans and destitute children in the city of Chicago. The mayor of the city of Chicago is made *ex officio* the legal guardian for transferring such children to the care of the asylum, in case other legal guardians cannot be found.

DECEMBER 28, 1849: *An Act to incorporate the Illinois General Hospital of the Lake.*

This act incorporated the trustees of the Illinois General Hospital of the Lake, and conferred upon the city council of the city of Chicago the right to send to the hospital its sick and poor, and to contribute as it may deem expedient to the hospital

FEBRUARY 4, 1851: *An Act to prohibit the sale of the Public Square in the city of Chicago.*

This act provides that lot number 39 in the original town of Chicago is dedicated to public uses as a public common and square. The board of supervisors and all other authorities of the county of Cook, and common council of the city of Chicago, are forbidden to sell, mortgage, incumber, or convey said block 39, or any part thereof. But this act is not to be construed so as to prevent the erection of county buildings on said block 39.

FEBRUARY 14, 1851: *An Act to exempt members of the fire department of the city of Chicago from serving on juries.*

This act exempted firemen from serving on juries while members of the fire department, and in return for ten years' service granted them perpetual exemption.

FEBRUARY 14, 1851: *An Act to reduce the law incorporating the city of Chicago and the several acts amendatory thereof into one act, and to amend the same.* (For text of this act see Chap. VII.)

CHAPTER VII.

A.

Second City Charter.

[The Consolidating Act of February 14, 1851.]

AN ACT

TO REDUCE THE LAW INCORPORATING THE CITY OF CHICAGO, AND THE SEVERAL ACTS AMENDATORY THEREOF, INTO ONE ACT, AND TO AMEND THE SAME.[1]

Division I. City and ward boundaries.
Division II. Officers — their election and appointment.
Division III. Powers and duties of officers.
Division IV. Of the Common Council — its general powers and duties.
Division V. Of taxation.
Division VI. Assessments for opening streets and alleys.
Division VII. Assessments for public improvements.
Division VIII. Collection of taxes and assessments.
Division IX. Fire Department.
Division X. Board of Health.
Division XI. Schools and school funds.
Division XII. Miscellaneous provisions.

DIVISION I.

CITY AND WARD BOUNDARIES.

§1. City boundaries established.
§2. Inhabitants incorporated; name and powers of the corporation.
§3. Creation of wards; their boundaries.

[1] Reprinted from the Revised Charter and Ordinances of the City of Chicago George Manierre, Chicago, 1851.

Be it enacted by the people of the State of Illinois represented in the General Assembly:

I. That the district of country in the county of Cook and state of Illinois, known and described as follows, to-wit: all that part of township thirty-nine north, range fourteen east of the third principal meridian, which lies north of the north line of sections twenty-seven, twenty-eight, twenty-nine, and thirty of said township, and the east half of section thirty-three, and fractional section thirty-four in township forty north, range fourteen east, is hereby erected into a city by the name of the *City of Chicago.*

II. The inhabitants of said city shall be a corporation by the name of the City of Chicago; and by that name sue and be sued, complain and defend in any court; make and use a common seal and alter it at pleasure, and take, hold, and purchase, lease and convey, such real and personal or mixed estate as the purposes of the corporation may require, within or without the limits aforesaid.

III. The city of Chicago shall be divided into nine wards, as follows:

First ward. All that part of the city which lies south of the center of Chicago river, and east of the center of State street, and a line running due south from the center of the last named street, shall be denominated the first ward.

Second ward. All that part of said city which lies south of the center of said Chicago river, west of the first ward, and east of the center of Clark street, and a line running due south from the center of the last named street, shall be denominated the second ward.

Third ward. All that part of said city which lies south of the center of said Chicago river, west of the second ward, and east of the center of Wells street, and a line running due south from the center of the last named street, shall be denominated the third ward.

Fourth ward. All that part of said city which lies south of the center of the said Chicago river, west of the third ward, and

east of the center of the south branch of the Chicago river, shall be denominated the fourth ward.

Fifth ward. All that part of said city which lies west of the center of the south branch of Chicago river, and south of the center of Randolph street, and a line running due west from the center of the last named street, shall be denominated the fifth ward.

Sixth ward. All that part of said city lying west of the center of Chicago river, and north and south branches thereof, and north of the center of Randolph street, and a line running due west from the center of the last named street, shall be denominated the sixth ward.

Seventh ward. All that part of said city which lies east of the center of the north branch of the Chicago river, and north of the center of the Chicago river, and west of the center of La Salle street, and a line running due north from the center of the last named street, shall be denominated the seventh ward.

Eighth ward. All that part of said city which lies north of the center of the Chicago river, and east of the seventh ward, and west of the center of Wolcott street, and a line running due north from the center of the last named street, shall be denominated the eighth ward.

Ninth ward. All that part of said city which lies north of the center of the Chicago river, east of Wolcott street, and a line running due north from the center of the last named street, shall be denominated the ninth ward.

DIVISION II.

OFFICERS — THEIR ELECTION AND APPOINTMENT.

§ 1. Officers composing the city government.
2. Time and place of election; clerk to give notice.
§ 3. Certain officers elected by the people; by the wards.
4. Street commissioners elected in divisions. Divisions defined.

§ 5. Terms of elective officers; officers appointable by the council; when to be appointed; watchmen.
6. Wards entitled to two aldermen; their term of office; divided into classes; removal from the ward to create vacancy.
7. People failing to elect; new election to be held.
8. All officers removable by the council; in what cases charges to be made; mode of trial; when officers may be suspended.
§ 9. Elections to fill vacancies; when to be held; council to appoint *ad interim*.
10. Who qualified to hold office; special disability.
11. A tie to be determined by lots.
12. Elections; how conducted; power to regulate; returns; clerk to notify persons elected.
13. Qualifications of electors; challenge oath to be taken.
14. Electors; when exempt from arrest; illegal voting punishable.

I. The municipal government of the city shall consist of a common council, composed of the mayor and two aldermen from each ward. The other officers of the corporation shall be as follows: a clerk; an attorney; a treasurer; a school agent; a marshal; a board of school inspectors; a board of health; one chief, and a first and second assistant engineers of the fire department; one or more collectors; one or more surveyors; one street commissioner and one assessor for each natural division of the city; one or more harbor masters; three trustees of schools for each school district; one or more health officers; one or more market clerks; three inspectors of elections for each ward; and as many firemen, fire wardens, constables, policemen, watchmen, sealers of weights and measures, inspectors, measurers, weighers, gaugers, sextons or keepers of burial grounds; keepers and assistants of almshouses, workhouses, public buildings, hospitals, and bridewell or house of correction; bellmen, common criers, scavengers, and such other officers and agents as the common council may, from time to time, direct and appoint.

II. An election shall be held in each of the wards of said

city on the first Tuesday in March in each year, at such place as the common council may appoint, and of which six days' previous public notice shall be given in written or printed notices, in three public places in each ward by the city clerk.

III. At the annual election there shall be elected, by the qualified voters of said city, a mayor, marshal, treasurer, collector, surveyor, attorney, and chief and assistant engineers; and the person having the highest number of votes in the whole city for either of such offices shall be declared elected. At the same time the electors in their respective wards shall vote for one alderman and one police constable, and the persons receiving the highest number of votes cast in the ward for such offices, respectively, shall be declared elected.

IV. There shall also be elected at such election one street commissioner by the legal voters of the south division, being the first, second, third, and fourth wards; one street commissioner by the legal voters of the west division, being the fifth and sixth wards; and one street commissioner by the legal voters of the north division, being the seventh, eighth, and ninth wards of said city, and the person having the highest number of votes in each division, respectively, shall be declared elected.

V. The officers elected by the people under this act (except aldermen) shall respectively hold their offices for one year and until the election and qualification of their successors respectively. All other officers mentioned in this act (except aldermen and firemen), and not otherwise specially provided for, shall be appointed by the common council by ballot, on the second Tuesday of March in each year, or as soon thereafter as may be, and respectively continue in office one year and until the appointment and qualification of their successors. But the council may specially authorize the appointment of watchmen by the mayor or marshal, to continue in office during the pleasure of the council: Provided, the mayor or marshal may be authorized by the council to remove for good cause. Officers elected or appointed to fill vacancies shall respectively hold for

the unexpired term only, and until the election or appointment and qualification of their successors.

VI. The several wards of the city shall be respectively represented in the common council by two aldermen, who shall be residents thereof, and hold their offices respectively for two years from and after their election, and until the election and qualification of their successors. They shall be divided into two classes, consisting of one alderman from each ward, so that one from each ward may be annually elected. The first class shall be elected at the annual election in March next, and be successors to the members of the present common council whose offices expire at that time. The second class shall be elected one year thereafter and succeed those members who are entitled to hold over one year after the next election. The members of each class, hereafter elected, shall respectively continue in office two years. If from any cause there shall not be a quorum of aldermen, the clerk shall appoint the time and places for holding a special election and appoint inspectors thereof, if necessary. If any alderman remove from the ward represented by him, his office shall thereby become vacant.

VII. If for any cause the officers herein named shall not be appointed on the second Tuesday in March, the common council may adjourn from time to time, until such appointments are made. If there should be a failure by the people to elect any officers herein required to be elected, the common council may forthwith order a new election.

VIII. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from such office by a vote of two-thirds of all the aldermen authorized by law to be elected. But no officer shall be removed except for cause, nor unless first furnished with the charges and heard in his defense, and the common council shall have power to compel the attendance of witnesses and the production of papers when necessary for the purposes of such trial, and shall proceed within ten days to hear and determine upon the merits of the case, and if such officer shall neglect to appear and

answer to such charges, then the common council may declare the office vacant: Provided, this section shall not be deemed to apply to any officer appointed by the common council; such officer may be removed at any time by a vote of two-thirds, as aforesaid, in the discretion of the council. But any officer may be suspended until the disposition of charges when preferred.

IX. Whenever any vacancy shall happen by death, removal, resignation, or otherwise, of any officer elected by the people, such vacancy shall be filled by a new election, and the common council shall order such new election within ten days after the happening of such vacancy. Any vacancy occurring by the death, removal, or resignation of any officer authorized to be appointed by the common council may be filled by appointment of the council; but no special election shall be held to fill vacancies (except of mayor and aldermen) if more than six months of the term have expired.

X.[1] All citizens of the United States qualified to vote at any election held under this act shall be qualified to hold any office created by this act, but no person shall be eligible to any office or place under this or any other act in relation to said city, who is now or may hereafter be a defaulter to said city, or to the state of Illinois, or any county thereof; and any person shall be considered a defaulter who has refused or neglected, or may hereafter refuse or neglect, for thirty days after demand made, to account for and pay over to the party authorized to receive the same any public money which may have come into his possession. And if any person holding any such office or place shall become a defaulter whilst in office, the office or place shall thereupon become vacant.

XI. When two or more candidates for an elective office shall have an equal number of votes for the same office, the election

[1] "No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state one year next before the election or appointment." (Const., Art. VI, sec. 7.)

The constitution became the supreme law of this state "from and after the first day of April, A. D. 1848." (*Ibid.*, Schedule, sec. 13.)

shall be determined by the casting of lots in the presence of the common council.

XII. The manner of conducting and voting at elections to be held under this act and contesting the same, the keeping of the poll lists, canvassing of the votes and certifying the returns, shall be the same, as nearly as may be, as is now or may hereafter be provided by law at general state elections: Provided, the council shall have power to regulate elections. The voting shall be by ballot, and the inspectors of elections shall take the same oath and shall have the same power and authority as inspectors of general elections.[1] After the closing of the polls the ballots shall be counted in the manner required by law, and the returns shall be returned sealed to the city clerk within three days after the election, and thereupon the common council shall meet and canvass the same, and declare the result of the election. It shall be the duty of the clerk to notify all persons elected or appointed to office, of their election or appointment, and unless such persons shall respectively qualify within ten days thereafter, the offices shall become vacant.

XIII.[2] No person shall be entitled to vote at any election under this act who is not entitled to vote at state elections, and has not been a resident of said city at least six months next preceding the election; he shall, moreover, have been an actual resident of the ward in which he votes for ten days previous to the election, and, if required by any person qualified to vote thereat, shall take the following oath before he is permitted to vote: Provided, that the voter shall be deemed a resident of the ward in which he is accustomed to lodge: "I swear (or affirm) that I am of the age of twenty-one years, that I am a

[1] Chap. 37, Revised Statutes 1845, Laws of 1849, p. 71. See ordinance.

[2] In all elections every white male citizen above the age of twenty-one years, having resided in the state one year next preceding any election, shall be entitled to vote at such elections, and every white male inhabitant of the age aforesaid who may be a resident of the state at the time of the adoption of this constitution shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote, except in the district or county in which he shall actually reside at the time of such election. (Const., Art. VI., sec. 1.)

citizen of the United States (or was a resident of this state at the time of the adoption of the constitution), and have been a resident of this state one year, and a resident of this city six months immediately preceding this election, and am now, and have been for ten days last past, a resident of this ward, and have not voted at this election."

XIV. The persons entitled to vote at any election held under this act shall not be arrested on civil process within said city upon the day on which said election is held, and all persons illegally voting at any election under this act shall be punishable according to the laws of this state.

[A corporation paper to be designated by the common council. (See sec. 17, Division III.)]

DIVISION III.

POWERS AND DUTIES OF OFFICERS.

§ 1. Officers to be sworn before entering upon their duties.
2. Duties of mayor: to preside over the council; to enforce the laws; shall have a salary; may qualify as a justice; may veto ordinances, etc., and administer oaths.
3. Acting mayor; when and how appointed.
4. Members of the council; *ex officio* fire wardens and conservators of the peace; exemptions.
5. Clerk; to keep seal and records; certified copies made evidence.
6. Duties of city attorney.
7. Treasurer; to keep all moneys; make reports; warrants, how drawn.
§ 8. Marshal; to collect licenses; vested with constable's powers.
9. City surveyor; sole power to survey; legal effect of his acts.
10. Duties of collector.
11. Assessors; their powers; joint revision of the rolls.
12. Duties of harbor master.
13. Street commissioners to superintend local improvements; report monthly.
14. Constables; to give bond; their liabilities; powers.
15. Other duties of officers may be prescribed by council; their compensation and bonds.
16. Certain officers to give bond; conditions thereof.

§17. Corporation paper, what proceedings to be published in.
18. Persons refusing to deliver official papers; how proceeded against; penalties.
§19. Certain officers to be commissioned by warrant.

I. Every person chosen or appointed to an executive, judicial, or administrative office under this act shall, before he enters on the duties of his office, take and subscribe the oath of office prescribed in the constitution of this state,[1] and file the same, duly certified by the officer before whom it was taken, with the clerk of the city.

II. The mayor shall, before he enters upon the duties of his office, in addition to the usual oath, swear or affirm that he will devote so much of his time to the duties of his office as an efficient and faithful discharge thereof may require. He shall preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city are duly enforced, respected, and observed, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information, and recommend such measures, as he may deem advantageous to the city. He shall have a salary of twelve hundred dollars per annum; and he may give bond and qualify as a justice of the peace, and, when qualified, shall possess the same powers and jurisdiction as are herein vested in such justices of the peace as may be designated by the common council under this act, and be entitled to like fees. But he shall account for and pay over to the city treasurer, when required, all fines, fees, or other moneys received by him in his judicial capacity, and keep a docket subject at all times to the inspection of the

[1] Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the constitution of the United States, and of this state, and also an oath of office. (Constitution, Art. III, sec. 30.)

In addition to the foregoing oath, every person elected or appointed to any office, before entering on the duties of his office, is required to take an oath against dueling. (*Ibid.*, Art. XIII, sec. 26.)

common council. All ordinances and resolutions shall, before they take effect, be placed in the office of the city clerk, and if the mayor approve thereof, he shall sign the same ; and such as he shall not sign he shall return to the council with his objections thereto. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered, and if, after such reconsideration, a majority of all the members elected to the council shall agree, by ayes and noes which shall be entered of record, to pass the same, it shall go into effect. And if the mayor shall neglect to approve or object to any such proceedings for a longer period than three days after the same shall be placed in the clerk's office, as aforesaid, the same shall go into effect. The mayor shall likewise have power, *ex officio*, to administer any oath required to be taken by this act.

III. In case of a vacancy in the office of the mayor, or of his being unable to perform the duties of his office, by reason of temporary or continued absence or sickness, the common council shall appoint by ballot one of their number to preside over their meetings, whose official designation shall be acting mayor. And the alderman so appointed shall be vested with all the powers and perform all the duties of mayor, except in regard to qualifying as justice of the peace, until the mayor shall resume his office, or the vacancy be filled by a new election.

IV. The members of the common council shall be fire wardens and conservators of the peace,[1] and shall be exempted from jury duty and the payment of street taxes during their term of office.

V. The clerk shall keep the corporate seal and all papers belonging to said city, and make a record of the proceedings of the common council, at whose meeting it shall be his duty to attend ; and copies of all papers duly filed in his office, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the originals were

[1] Powers of conservators of the peace defined in chap. 12, sec. 18.

produced. He shall likewise draw all warrants on the treasury and countersign the same, and keep an accurate account thereof in a book to be provided for that purpose; he shall also have power to administer any oath required to be taken by this act.

VI. It shall be the duty of the city attorney to perform all professional services incident to the office, and, when required, furnish written opinions upon subjects submitted to him by the mayor or the common council, or its committees.

VII. The treasurer shall receive all moneys belonging to the city, and keep an accurate account of all receipts and expenditures in such manner as the common council shall direct. All moneys shall be drawn from the treasury in pursuance of an order from the common council, by warrant signed by the mayor or presiding officer of the common council, and countersigned by the clerk; such warrant shall specify for what purpose the amount specified therein is to be paid. The treasurer shall exhibit to the common council, at least fifteen days before the annual election of each year, and oftener if required, a full and detailed account of all receipts and expenditures after the date of the last annual report, and also of the state of the treasury; which account shall be filed in the office of the clerk.

VIII. The marshal shall perform such duties as shall be prescribed by the common council, for the preservation of the public peace, the collection of license money and fines, or otherwise. He shall possess the power and authority of a constable at common law, and under the statutes of this state, and receive like fees, but shall not serve civil process without first entering into bonds as such constable, to be approved by the common council, as in other cases.

IX. The city surveyor, or surveyors, shall have the sole power, under the direction or control of the common council, to survey within the city limits, and he and they shall be governed by such rules and ordinances, and receive such fees and emoluments, for his or their services, as the common council shall appoint and direct. He shall possess the same powers in making surveys and plats, within the city, as are given by law to county

surveyors, and the like effect and validity shall be given to his acts, and to all plats and surveys heretofore or hereafter made by any such surveyor, as are, or may be, given by law to the acts, plats, and surveys of county surveyors.[1]

X. It shall be the duty of the collector or collectors to collect all taxes and assessments which may be levied by said city, and perform such other duties as may be herein prescribed or ordained by the common council.

XI. Assessors shall perform all the duties in relation to the assessing of property for the purpose of levying the taxes imposed by the common council. In the performance of their duties they shall have the same powers as are or may be given by law to county or town assessors, and be subject to the same liabilities.[2] On completing their assessment rolls, they shall meet together and revise and correct the same, and, having completed the revision, they shall sign the several rolls and return the same to the common council.

XII. It shall be the duty of the harbor master to enforce all ordinances and provisions of this act in relation to the harbor.

XIII. It shall be the duty of the street commissioners to superintend all local improvements in their respective divisions,

[1] SEC. 7. It shall be the duty of each county surveyor to provide himself with a well-bound book, in which he shall legibly record every survey made by him, giving therein the name of the person, the survey of whose land is so recorded, and describing, as near as practicable, the metes and bounds of the land, and noting the date on which the survey was made; and such record shall be subject to the inspection of every person who may think himself interested; and a certified copy thereof, under the hand of the surveyor, shall be admitted as *prima facie* evidence in any court in this state.

SEC. 8. No act or record by any surveyor shall be conclusive, but may be reviewed by any competent tribunal, in any case where the correctness thereof may be disputed. (Revised Stat. 1845, chap. 103.)

Duties and powers of surveyors in laying out towns, additions thereto, and subdivisions of out lots, prescribed in Division I, chap. 25, of Revised Statutes 1845. To entitle plats to record, they must be certified by the surveyor. (*Ibid.*)

[2] Each assessor may, if he shall deem it necessary, require every owner of taxable property to give in, under oath, either by himself or agent, a list and description of all his taxable lands and lots, with the improvements thereon; and every description of personal property, including stocks, money on hand and at interest, capital

and carry into effect all orders of the common council in relation thereto. They shall keep accurate account of all expenditures made by them, and render monthly accounts thereof to the common council.

XIV. Every person appointed or elected to the office of constable shall, before he enters upon the duties of his office, with two or more sureties, to be approved by the common council, execute, in presence of the clerk of the city, an instrument in writing by which such constable and securities shall, jointly and severally, agree to pay to each and every person who may be entitled thereto, all such sums of money as the said constable may be liable to pay by reason or on account of any summons, execution, distress warrant, or other process which shall be delivered to him for collection. The clerk shall certify the approval of the common council on such instrument and file the same; and a copy, certified by the clerk under the corporate seal, shall be presumptive evidence, in all courts, of the execution thereof by such constable and his sureties; and all actions thereon shall be prosecuted within two years after the expiration of the year for which the constable named therein shall have been appointed or elected, and may be brought in the name of the person or persons entitled to the money collected by virtue of such instruments. No constable appointed or elected, under this act, shall have power to serve any civil process out of the city limits, except in cases of persons fleeing therefrom, and to commit on execution, where the defendant shall have been arrested within the city.

employed each year in merchandizing, adopting as a criterion the value of the greatest amount of goods on hand at any time in the year; and he shall, in the presence of such person, enter the same in his book, and value each tract or lot separately, and each species of personal property separately.

SEC. 17. When unable to find the owner of any lands or lots, the assessor may value the same according to the best information he can procure.

SEC. 20. If any taxable property shall be omitted in the assessment of any year, the same, when discovered, shall be assessed with the arrearages of taxes which might have been assessed, with six per cent. interest from the time they should have been paid. (Rev. Stat. 1845, chap. 89.)

See ordinance concerning assessors.

XV. The common council shall have power, from time to time, to require further and other duties of all officers whose duties are herein prescribed, and prescribe the powers and duties of all officers appointed or elected to any office under this act, whose duties are not herein specifically mentioned, and fix their compensation. They may also require bonds to be given to the city of Chicago by all officers for the faithful performance of their duties.

XVI. The treasurer, collectors, marshal, street commissioners, and school agent shall severally, before they enter on the duties of their respective offices, execute a bond to the city of Chicago in such sum, and with such sureties, as the common council shall approve; conditioned that they shall faithfully execute the duties of their offices, and account for and pay over all moneys and other property received by them; which bonds, with the approval of the common council, certified thereon by the clerk, shall be filed with the clerk.

XVII. The common council, at their annual meeting on the second Tuesday in March in each year, or within not to exceed thirty days thereafter, shall designate one public newspaper printed in said city, in which shall be published all ordinances, and other proceedings and matters required in any case by this act, or by the by-laws and ordinances of the common council, to be published in a public newspaper.

XVIII. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all the property, papers, and effects of every description in his possession belonging to said city, or appertaining to the office he held, he shall forfeit and pay for the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver. And such successor shall and may recover possession of the books, etc., appertaining to his office, in the manner prescribed by the laws of this state.[1]

[1] SEC. 10. In case of such refusal it shall and may be lawful for any judge of the supreme or circuit court of the proper county, upon the affidavit of any competent person, setting forth proper facts, to issue his warrant, directed to the sheriff of

XIX. All appointments to fill a vacancy in an elective office under this act, and all appointments of clerk, marshal, city superintendent, assessors, and surveyors, and all elections of treasurer, attorney, collectors, constables, and street commissioners shall be by warrant, under the corporate seal, signed by the mayor or presiding officer of the common council, and clerk.

XX. All persons elected or appointed, under this act, to the office of clerk, marshal, attorney, treasurer, collector, assessor, surveyor, street commissioner, or constable, shall be commissioned by warrant under the corporate seal, signed by the mayor or presiding officer of the common council, and clerk.[1]

DIVISION IV.

OF THE COMMON COUNCIL — ITS GENERAL POWERS[2] AND DUTIES.

§1. Mayor and aldermen constitute the common council; to determine time and place of meetings, mayor to preside; in his absence, any alderman; quorum.
2. No member to receive any compensation, hold any office, or be interested in any contract.
§3. To hold stated meetings; special meetings, how called; judge of the election and qualification of its members; compel their attendance; determine rules of proceedings.
4. To control finances and property; enumeration of general powers.

I. The mayor and aldermen shall constitute the common council of said city. The common council shall meet at such times and places as they shall by resolution direct. The mayor,

coroner of the proper county, commanding him to seize all the records, books, papers, documents, and other public property belonging or appertaining to the said officer, and deliver the same to the person entitled to the custody thereof, to be named in such warrant. (Rev. Stat. 1845, chap. 87.)

[1] Paragraph XIX of the original law was omitted, evidently by mistake, from Manierre's edition, and paragraph XX wrongly numbered.—EDITOR.

[2] This chapter is designed to embrace all powers which cannot be appropriately placed in any other.

when present, shall preside at all meetings of the common council, and shall have only a casting vote. In his absence any one of the aldermen may be appointed to preside. A majority of the persons elected as aldermen shall constitute a quorum.

II. No member of the common council shall, during the period for which he was elected, receive any compensation for his services, or be appointed to, or be competent to hold, any office of which the emoluments are paid from the city treasury, or paid by fees directed to be paid by any act or ordinance of the common council, or be directly or indirectly interested in any contract, the expenses or consideration whereof are to be paid under any ordinance of the common council.

III. The common council shall hold stated meetings, and the mayor or any two aldermen may call special meetings by notice to each of the members of said council, served personally, or left at their usual place of abode. Petitions and remonstrances may be presented to the common council, and the council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members, and have power to compel the attendance of absent members.

IV. The common council shall have the management and control of the finances, and all the property, real, personal, and mixed, belonging to the corporation, and shall likewise have power, within the jurisdiction of the city, by ordinance:

First. To lease the wharfing privileges of the river at the ends of streets, upon such terms and conditions as may be usual in the leasing of other real estate, reserving such rents as may be agreed upon, and employing such remedies, in case of non-performance of any covenants in such lease, as are given by law in other cases. But no buildings shall be erected thereon: Provided, no lease for a longer period than three years shall at any time be executed, and the owner or owners of the adjoining lot or lots shall, in all cases, have the preference in leasing such property; but a free passage over the same for all persons with their baggage shall be reserved in such lease: Provided further, nothing in this section shall be so construed as to impair or

prejudice any rights which any person may have acquired by the acceptance of any proposition heretofore made by said city respecting the wharfing privileges.

Second. To remove and prevent all obstructions in the waters which are public highways in said city, and to widen, straighten, and deepen the same.

Third. To prevent and punish forestalling and regrating, and to prevent and restrain every kind of fraudulent device and practice.

Fourth. To restrain and prohibit all descriptions of gaming and fraudulent devices, and all playing of dice, cards, and other games of chance, with or without betting.

Fifth. To regulate the selling, or giving away, of any ardent spirits by any shop-keeper, trader, or grocer, to be drunk in any shop, store, or grocery, outhouse, yard, garden, or other place within the city, except by innkeepers duly licensed.

Sixth. To forbid the selling, or giving away, of ardent spirits, or other intoxicating liquors, to any child, apprentice, or servant, without the consent of his or her parent, guardian, master, or mistress; or to any Indian.

Seventh. To licence, regulate, and restrain tavern-keepers, grocers, and keepers of ordinaries or victualing or other houses or places, for the selling or giving away wines and other liquors, whether ardent, vinous, or fermented.

Eighth. To license, tax, regulate, suppress, and prohibit billiard tables, pin alleys, nine or ten pin alleys, and ball alleys.

Ninth. To license, regulate, and suppress hackmen, draymen, carters, porters, omnibus drivers, cabmen, packers, carmen, and all others who may pursue like occupations with or without vehicles, and prescribe their compensation.

Tenth. To tax, license, and regulate auctioneers, distillers, brewers, and pawn-brokers, and to impose duties upon the sale of goods at auction.

Eleventh. To license, tax, regulate, and suppress hawkers and peddlers.

Twelth. To regulate, license, suppress, and prohibit all

exhibitions of common showmen, shows of every kind, concerts or other musical entertainments, by itinerant persons or companies, exhibitions of natural or artificial curiosities, caravans, circuses, theatrical performances, and all other exhibitions and amusements.

Thirteenth. To authorize the mayor, or other proper officer of the city, to grant and issue licenses, and direct the manner of issuing and registering thereof, and the fees to be paid therefor. No license shall be granted for more than one year: Provided, not less than five, nor more than five hundred, dollars shall be required to be paid for any license under this act, and the fee for issuing the same shall not exceed one dollar; but no license for the sale of wines or other liquors, ardent, vinous, or fermented, at wholesale or retail, or by innkeepers or others, as aforesaid, shall be less than fifty dollars. Bond shall be taken on the granting of license for the due observance of the ordinances or regulations of the common council.

Fourteenth. To prevent any riot or noise, disturbance or disorderly assemblage.

Fifteenth. To suppress and restrain disorderly houses, and groceries, houses of ill fame, billiard tables, nine or ten pin alleys or tables, and ball alleys, and to authorize the destruction and demolition of all instruments and devices used for the purpose of gaming.

Sixteenth. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove, or abate the same, from time to time, as often as may be necessary for the health, comfort, and convenience of the inhabitants of said city.

Seventeenth. To direct the location and management of, and regulate breweries, tanneries, and packing houses, and to direct the location, management, and construction of, and regulate, restrain, abate, and prohibit, within the city, and the distance of four miles therefrom, distilleries, slaughtering establishments, establishments for steaming and rendering lard, tallow, offal, and

such other substances as can or may be rendered; and all establishments or places where any nauseous, offensive, or unwholesome business may be carried on: Provided, that for the purposes of this section the Chicago river and its branches, to their respective sources and the land adjacent thereto, or within one hundred rods thereof, shall be deemed to be within the jurisdiction of the city.

Eighteenth. To establish and regulate markets and other public buildings, and to provide for their erection, determine their location, and authorize their erection in the streets or avenues of the city.

Nineteenth. To regulate and license or prohibit butchers, and to revoke their licenses for malconduct in the course of trade, and to regulate, license, and restrain the sale of fresh meats and vegetables in the city, and restrain and punish the forestalling of poultry, fruit, and eggs.

Twentieth. To direct and prohibit the location and management of houses for the storing of gunpowder, or other combustible and dangerous materials within the city.

Twenty-first. To regulate the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns, stables, and outhouses.

Twenty-second. To prevent horse-racing, immoderate riding or driving in the streets, and to authorize persons immoderately riding or driving, as aforesaid, to be stopped by any person; and punish or prohibit the abuse of animals; to compel persons to fasten their horses, oxen, or other animals, attached to vehicles or otherwise, while standing or remaining in the street.

Twenty-third. To prevent the incumbering of the streets, sidewalks, lanes, alleys, public grounds, wharves, and docks, with carriages, carts, sleighs, sleds, wheelbarrows, boxes, lumber, timber, fire wood, posts, awnings, signs, or any substance or material whatever.

Twenty-fourth. To regulate and determine the times and places of bathing and swimming in the canals, rivers, harbors, or other waters, in and adjoining said city, and to prevent any obscene or indecent exhibition, exposure, or conduct.

Twenty-fifth. To restrain and punish vagrants, mendicants, street beggars, and prostitutes.

Twenty-sixth. To restrain and regulate, or prohibit, the running at large of cattle, horses, swine, sheep, goats, and geese, and to authorize the distraining, impounding, and sale of the same for the penalty incurred, and the cost of the proceedings; and also to impose penalties on the owners of any such animals, for a violation of any ordinances in relation thereto.

Twenty-seventh. To prevent and regulate the running at large of dogs, and to authorize the destruction of the same, when at large, contrary to the ordinance.

Twenty-eighth. To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets, or on the sidewalks, or to frighten teams and horses.

Twenty-ninth. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws, and enforce the same within the city, and not to exceed fifteen miles beyond the city bounds.

Thirtieth. To have exclusive power over the streets and alleys, and to remove and abate any obstructions and encroachments therein.

Thirty-first. To compel all persons to keep the snow, ice, and dirt from the sidewalk in front of the premises owned or occupied by them.

Thirty-second. To prevent the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, performances, and devices tending to the collection of persons on the streets or sidewalks by auctioneers or others for the purposes of business, amusement, or otherwise.

Thirty-third. To abate and remove nuisances, and to punish the authors thereof, by penalties, fine, and imprisonment, and to define and declare what shall be deemed nuisances, and authorize and direct the summary abatement thereof.

Thirty-fourth. To license, regulate, and restrain runners for boats and stages, cars, and public houses.

Thirty-fifth. To regulate the burial of the dead, and registration of births and deaths; to direct the returning and keeping of bills of mortality, and to impose penalties on physicians, sextons, and others for any default in the premises.

Thirty-sixth. To appoint watchmen and policemen, and prescribe their duties and powers.

Thirty-seventh. To regulate the measuring and inspecting of lumber, shingles, timber, posts, staves, and heading, and all building materials, and appoint one or more inspectors.

Thirty-eighth. To regulate the place and manner of selling pickled and other fish, and inspecting the same.

Thirty-ninth. To regulate the weighing, and place and manner of selling hay.

Fortieth. To regulate the measuring of wood and the weighing and selling of coal, and the place and manner of selling the same.

Forty-first. To regulate the inspection of flour, meal, pork, beef, and other provisions, and the salt to be sold in barrels, hogsheads, and other packages.

Forty-second. To regulate the inspection of whisky and other liquors to be sold in barrels, hogsheads, and other vessels.

Forty-third. To appoint inspectors, weighers, gaugers, and regulate their duties and prescribe their fees.

Forty-fourth. To create and regulate the police of said city.

Forty-fifth. To establish, make, and regulate public pumps, wells, and cisterns, hydrants and reservoirs, and to prevent the unnecessary waste of water.

Forty-sixth. To establish and regulate public pounds.

Forty-seventh. To erect lamps and regulate the lighting thereof, and from time to time create, alter, and extend lamp districts.

Forty-eighth. To regulate and license ferries.

Forty-ninth. To regulate and prohibit the use of locomotive engines within the city, and may require the cars to be used thereon, within the inhabited portions thereof, to be drawn or propelled by other power than that of steam; to direct and control

the location of railroad tracks and depot grounds, and prohibit railroad companies from doing storage and warehouse business, or collecting pay for storage.

Fiftieth. To erect and establish a bridewell or house of correction, pass all necessary ordinances for the regulation thereof, and appoint a keeper and as many assistants as may be necessary. In the said bridewell or house of correction shall be confined all vagrants, stragglers, idle or disorderly persons who may be committed thereto by the mayor, any alderman, or other conservator of the peace; and all persons sentenced by any criminal court or magistrate in and for the city for any assault and battery, petit larceny, or other misdemeanor punishable by imprisonment in any county jail, shall be kept therein, subject to labor or solitary confinement.

Fifty-first. To require every merchant, retailer, trader, and dealer in merchandise or property of any description, which is sold by measure or weight, to cause their weights and measures to be sealed by the city sealer, and to be subject to his inspection; the standard of which weights and measures shall be conformable to those now established by law.

Fifty-second. Exclusively to erect and construct, or to permit or cause, or procure to be erected and constructed, float or draw bridges over the navigable waters within the jurisdiction of said city, and keep the same in repair; said bridges to have draws of suitable width.

Fifty-third. To preserve the harbor; to prevent any use of the same, or any act in relation thereto, inconsistent with, or detrimental to, the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein any earth, ashes, or other substance, filth, logs, or floating matter; to prevent and remove all obstructions therein, and to punish the authors thereof; to regulate and prescribe the mode and speed of entering and leaving the harbor, and of coming to and departing from the wharves and streets of the city, by steamboats, canal

boats, and other crafts and vessels, and the disposition of the sails, yards, anchors, and appurtenances thereof, while entering, leaving, or abiding in the harbor; and to regulate and prescribe by such ordinances, or through their harbor master or other authorized officer, such a location of every canal boat, steamboat, or other craft or vessel, or float, and such changes of station in, and use of, the harbor, as may be necessary to promote order therein, and the safety and equal convenience, as near as may be, of all such boats, vessels, crafts, and floats; and may impose penalties not exceeding one hundred dollars for any offense against any such ordinance, and by such ordinance charge such penalties, together with such expenses as may be incurred by the city in enforcing this section, upon the steamboat, canal boat, or other vessel, craft, or float. The harbor of the city shall include the piers and so much of Lake Michigan as lies within the distance of one mile into the lake, and the Chicago river and its branches to their respective sources.

Fifty-fourth. To exclusively control, regulate, repair, amend, and clear the streets and alleys, bridges, side- and cross-walks, and open, widen, straighten, and vacate streets and alleys, and put drains and sewers therein, and prevent the incumbering of the streets in any manner, and protect the same from any encroachments and injury.

Fifty-fifth. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Fifty-sixth. To borrow money, not exceeding one hundred thousand dollars in any one year, and pledge the revenue of the city for its payment, and issue bonds therefor.

Fifty-seventh. To fill up, drain, cleanse, alter, relay, repair, and regulate any grounds, yards, barns, slips, cellars, private drains, sinks, and privies, direct and regulate their construction, and cause the expenses to be assessed and collected in the same manner as sidewalk assessments.

Fifty-eighth. To erect and establish one or more hospitals or dispensaries, and control and regulate the same.

Fifty-ninth. To abate all nuisances which are, or may be,

injurious to the public health, in any manner they may deem expedient.

Sixtieth. To do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease.

Sixty-first. To prevent any person from bringing, depositing, or having within the limits of said city any dead carcass, or any other unwholesome substance, and to require the removal or destruction, by any person who shall have, place, or cause to be placed, upon or near his premises, any such substance, or any putrid or unsound beef, pork, or fish, hides or skins of any kind, and on his default to authorize the removal or destruction thereof by some officer of said city.

Sixty-second. To authorize the taking up and provide for the safe-keeping and education, for such periods of time as may be deemed expedient, of all children who are destitute of proper parental care, wandering about the streets, committing mischief, and growing up in mendicancy, ignorance, idleness, and vice.

Sixty-third. The common council shall have power to make, publish, ordain, amend, and repeal all such ordinances, by-laws, and police regulations, not contrary to the constitution of this state, for the good government and order of the city and the trade and commerce thereof, as may be necessary or expedient to carry into effect the powers vested in the common council, or any officer of said city, by this act; and enforce observance of all rules, ordinances, by-laws, and police and other regulations, made in pursuance of this act, by penalties not exceeding one hundred dollars for any offense against the same. The common council may also enforce such rules, ordinances, by-laws, and police and other regulations, as aforesaid, by punishment of fine or imprisonment, or both, in the county jail, bridewell, or house of correction, in the discretion of the magistrate or court before which conviction may be had: Provided, such fine shall not exceed five hundred dollars, nor the imprisonment six months.

DIVISION V.

OF TAXATION.

§1. Power to levy tax for general purposes; for school purposes; for interest.
2. Tax for lake barrier; for city hall; for markets, etc.; taxes for local objects to be laid in divisions; whole not to exceed two per cent. per annum. Provisoes:
3. Tax for lighting; to be collected and expended in districts.
4. Street tax; may be commuted if paid within certain time; to be expended in the wards where collected.
§5. Expenditures in the several divisions to be in proportion to their respective taxes.
6. Any division receiving a greater proportion to refund by increased tax.
7. Improvements on school and canal lands, and wharfing privileges subject to taxation; personal property subject to payment of; premises may be sold; right of purchaser restricted.

I. The common council shall have power within the city, by ordinance:

First. To annually levy and collect taxes, not exceeding three and one-half mills on the dollar, on the assessed value of all real and personal estate in the city made taxable by the laws of this state,[1] to defray the contingent and other expenses of the

[1] SEC. 2. The term "real property," with respect to the assessment and collection of the revenue, shall be so construed as to include all lands within this state, and all buildings and other things erected on, or affixed to, the same; and the terms "lands" and "lots," whenever they occur, shall be construed as having the same meaning as "real property."

SEC. 3. The term "personal property" shall be construed to include all household furniture, goods, and chattels, all ships and vessels, whether at home or abroad, all moneys on hand and moneys loaned, whether within or without the state, all public stocks, stocks in turnpikes, bridges, insurance companies, and moneyed corporations; also all commissions and every description of property not included in the description of real estate.

SEC. 4. The following property shall be exempt from taxation: (1) Real and personal property of the United States and of this state. (2) The public lands. (3) Lands belonging to the school fund of any township; schoolhouses, courthouses, jails,

city, not herein otherwise specially provided for; which taxes shall constitute the general fund.

Second. To annually levy and collect a school tax, not exceeding two mills on the dollar, on all real and personal estate, to meet the expenses of purchasing grounds for schoolhouses, and building and repairing schoolhouses, and supporting and maintaining schools.

Third. To levy and collect a tax, not exceeding one-half mill on the dollar per annum, on real and personal estate, to meet the interest accruing on the bonded debt of the city.

II. To levy and collect taxes on real and personal estate when required.

First. For the erection of a barrier to protect the city from the lake.

Second. For the erection of a city hall, markets, hospital, bridewell or workhouse, the purchase of market grounds, public squares or parks, or any other permanent improvements: Provided, the estimated cost of a city hall, or bridewell, may be apportioned by the common council, and collected by a series of annual assessments: Provided, further, that the cost of market grounds, markets, public squares or parks, and lake barrier, or any other improvement, shall be levied upon all the property in the natural division of the city in which such markets, squares, or barrier may be located, except such part of the cost as the common council may cause to be specially assessed upon real estate in such division immediately benefited by such improvements, in the manner herein prescribed for the assessment of like improvements, in Division seven: Provided, that no tax or taxes shall

and the lands whereon situate; all property which is or may be exempt by special law, and all county lands and buildings set apart for county purposes, not to exceed ten acres. (4) Buildings erected for religious worship, the pews and furniture within the same, and the land whereon situate, not exceeding ten acres; also, burial grounds, not exceeding ten acres, or such quantity as may have been heretofore exempted by law: Provided, that such personal and real property shall not be exempt longer than the same is so used. (5) Buildings erected for the use of any literary, religious, benevolent, charitable, or scientific institutions, and the land on which the same are situate, not exceeding ten acres; also, the personal property belonging to any such institution, and connected with or set apart for the use thereof. (Revised Stat. 1845, chap. 89.)

be levied in any one year, under this section, which shall exceed two per cent. upon the value of the property assessed for either or all of the purposes herein specified: Provided, further, that no local improvement under this section shall be ordered in any division, unless a majority of the aldermen thereof shall vote in favor of the same. Provided, further, the common council may negotiate a loan for the purpose of building a market house, in any division, and apply the revenues therefrom toward paying the interest on such loan and liquidating the principal. But, should the net revenues from such market be insufficient to pay such interest and principal, when they shall respectively become due, the common council shall levy and collect a tax upon the real and personal property, in the division in which such market may be located, to make up the deficiency of such interest or principal, or both.

III. To levy and collect on the real and personal estate, in such districts as they shall from time to time create, a sufficient tax to defray three-fourths of the expense of erecting lamps, and lighting the streets in such district or districts, respectively: Provided, the money thus raised shall be exclusively expended for such purposes in the district paying the same.

IV. To require (and it is hereby made the duty of) every male resident of the city, over the age of twenty-one years, and under the age of sixty years, to labor three days in each year upon the streets and alleys; but every person may, at his option, pay at the rate of fifty cents for every day he shall be so bound to labor: Provided, the same shall be paid on or before the first day of the three days upon which he may be notified to labor by the street commissioner. In default of payment, as aforesaid, the sum of three dollars may be collected, and no offset shall be allowed in any suit brought to recover the same. Street taxes shall be expended in the several wards where the persons paying the same may respectively reside.

V. The common council shall, hereafter, in all expenditures for purposes strictly local, expend annually in the several natural divisions of the city such proportion of the whole expenditures

for like purposes, during the same period, as will correspond to the several sums contributed, respectively, by each division to the general fund.

VI. If it shall appear, at the close of any municipal year, that a greater sum has been expended, for purposes strictly local, in any division or divisions, than its or their relative proportion, it shall be the duty of the common council, the ensuing year, to increase the general tax in such division or divisions, respectively, by the amount of such excess, in such proportions thereof as each may be justly chargeable [there]with. They shall at the same time abate such excess from the assessment in the other division or divisions, respectively, in like proportions. For the purposes of this section it may be lawful for the common council to levy a tax in any division, for general purposes, not exceeding four-tenths of one per cent. per annum.

VII. All improvements on any school or canal lands or lots, and all improvements on the wharfing privileges in said city, together with the interest of the lessees or occupants in the premises, whether by lease, covenant, or deed, shall be subject to taxation as real estate. And the personal property of the owner of such improvements shall be liable for such taxes, and, upon a failure to pay the same, the collector may levy upon and sell the goods and chattels of such occupant or lessee for the payment thereof and costs. And in case such lessee or occupant shall have no personal estate, or neglect to pay the taxes, the interest of such lessee or occupant in such premises, together with the improvements, may be sold as real estate: Provided, the purchaser shall acquire no greater rights in the land than the tenant or occupant thereof had, but shall take the same subject to all the covenants and agreements in relation thereto.

DIVISION VI.

ASSESSMENTS FOR OPENING STREETS AND ALLEYS.

§ 1. Power to lay out squares, highways, etc.; to be surveyed and recorded by the clerk.
2. When laid out, notice to be given; commissioners to be chosen by ballot; their duties.
3. To be sworn; to give notice of meeting; may adjourn.
4. Valuation of buildings; when to be made.
5. Owner to be notified thereof; not found, notice to be published.
6. Refusing to take, building may be sold; notice; proceeds of sale.
7. Commissioners to appraise damages less benefits.
8. Report to show amount to be paid or received for benefit or damage.
9. Each party in interest entitled to an award.
10. Commissioners to assess damages and costs; their roll; when to be returned.
§11. Clerk to give notice of return; objections to report; proceedings thereupon.
12. Commissioners may be removed; vacancies, how filled.
13. No street to be discontinued without consent, unless to improve river.
14. Land not to be taken until damages paid or deposited.
15. When whole of lot taken, contracts to cease.
16. When part taken, to cease as to that part only; to continue as to residue; payments to be equitably proportioned.
17. Parties in interest may appeal; when and how to be taken; proceedings therein.
18. Council may change the proceedings.
19. Landlord to pay assessment when no agreement; remedy when paid by tenant.

I. The common council shall have power to lay out public squares or grounds, streets, alleys, lanes, and highways, and to make wharves and slips at the end of streets, and alter, widen, contract, straighten, and discontinue the same. They shall cause all streets, alleys, lanes, highways, wharves, slips, or public squares or grounds, laid out by them, to be surveyed, described, and recorded, in a book to be kept by the clerk, showing

particularly the proposed improvements, and the real estate required to be taken; and the same, when opened and made, shall be public highways.

II. Whenever any street, alley, lane, highway, wharf, slip, or public square or ground is laid out, altered, widened, or straightened, by virtue hereof, the common council shall give notice of their intention to appropriate and take the land necessary for the same, to the owner or owners thereof, by publishing said notice for ten days in the corporation newspaper. At the expiration of which time they shall choose, by ballot, three disinterested freeholders, residing in said city, as commissioners to ascertain and assess the damages and recompense due the owners of such lands respectively, and, at the same time, to determine what persons will be benefited by such improvement, and assess the damages and expenses thereof on the real estate of persons benefited, in proportion, as nearly as may be, to the benefits resulting to each. A majority of all the aldermen authorized by law to be elected shall be necessary to the choice of such commissioners.

III. The commissioners shall be sworn faithfully to execute their duties, according to the best of their ability. Before entering on their duties, they shall give notice to the persons interested of the time and place of their meeting, for the purpose of viewing the premises and making their assessment, at least ten days before the time of such meeting, by publishing the same in the corporation newspaper. They shall view the premises, and, in their discretion, receive any legal evidence, and may, if necessary, adjourn from day to day.

IV. If there should be any building standing, in whole or in part, upon the land to be taken, the commissioners, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him, and, secondly, the value of such building to him to remove.

V. At least five days' personal notice shall be given to the

owner of such determination, when known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested shall be given, by publication for ten days in the corporation newspaper; such notice shall be signed by the commissioners, and specify the building and the award of the commissioners. It shall also require parties interested to appear by a day to be named therein, or give notice of their election to the common council, either to accept the award of the commissioners, and allow such building to be taken with the land condemned or appropriated, or of their intention to remove such building, at the value set thereon by the commissioners to remove. If the owner shall agree to remove the building, he shall have such time for this purpose as the common council may allow.

VI. If the owner refuse to take the building at the value to remove, or fail to give notice of his election, as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building, at public auction for cash, giving five days' public notice of the sale. The proceeds of the sale shall be paid to the owner or deposited to his use.

VII. The commissioners shall thereupon proceed to make their assessment, and determine and appraise to the owner or owners the value of the real estate appropriated for the improvement and the injury arising to them respectively, from the condemnation thereof, which shall be awarded to such owners, respectively, as damages, after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement. In the estimate of damage to the land, the commissioners shall include the value of the building (if the property of the owner of such land), as estimated by them, as aforesaid, less the proceeds of the sale thereof; or if taken by the owner, at the value to remove, in that case they shall only include the difference between such value and the whole estimated value of such building.

VIII. If the damage to any person be greater than the

benefits received, or if the benefit be greater than the damage, in either case the commissioners shall strike a balance, and carry the difference forward to another column, so that the assessment may show what amount is to be received or paid by such owners, respectively, and the difference only shall in any case be collectible of them or paid to them.

IX. If the lands and buildings belong to different persons, or if the land be subject to lease or mortgage, the injury done to such persons, respectively, may be awarded to them by the commissioners, less the benefits resulting to them, respectively, from the improvement.

X. Having ascertained the damages and expenses of such improvement, as aforesaid, the commissioners shall thereupon apportion and assess the same, together with the cost of the proceedings, upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the improvements, as nearly as may be, and shall describe the real estate upon which their assessments may be made. When completed, the commissioners shall sign and return the same to the common council within forty days of their appointment.

XI. The clerk shall give ten days' notice in the corporation paper that such assessment has been returned, and, on a day to be specified therein, will be confirmed by the common council, unless objections to the same are made by some person interested. Objections may be heard before the common council, and the hearing may be adjourned from day to day. The council shall have the power in their discretion to confirm or annul the assessment, or refer the same back to the commissioners. If annulled, all the proceedings shall be void. If confirmed, an order of confirmation shall be entered, directing a warrant to issue for the collection thereof. If referred back to the same, or other commissioners, they shall proceed to make their assessments, and return the same in like manner, and give like notice as herein required in relation to the first; and all parties in interest shall have the like notices and rights, and the common council shall perform like duties, and have like powers

in relation to any subsequent determination, as are herein given in relation to the first.

XII. The common council shall have power to remove commissioners, and from time to time to appoint others in the place of such as may be removed, refuse, neglect, or be unable from any cause to serve.

XIII. Nothing herein contained shall authorize the common council to discontinue or contract any street or highway, or any part thereof, except for the purpose of widening and improving the rivers, and making basins and slips, without the consent, in writing, of all persons owning land adjoining said street or highway.

XIV. The land required to be taken for the making, opening, or widening of any street, alley, lane, or other highway, shall not be appropriated until the damages awarded therefor, to any owner thereof under this act, shall be paid or tendered to such owner or his agent, or, in case the said owner or his agent cannot be found in said city, deposited to his or their credit in some safe place of deposit, other than the hands of the treasurer, and then, and not before, such lands may be taken and appropriated for the purpose required in making such improvements and such streets, alleys, lanes, highways, wharves, and slips may be made and opened.

XV. Where the whole of any lot or parcel of land or other premises under lease, or other contract, shall be taken for any of the purposes aforesaid, by virtue of this act, all the covenants, contracts, and engagements between landlords and tenants, or any other contracting parties, touching the same or any part thereof, shall, upon confirmation of such report, respectively cease and be absolutely discharged.

XVI. Where part only of any lot or parcel of land, or other premises so under lease or other contract, shall be taken for any of the purposes aforesaid, by virtue of this act, all the covenants, contracts, and agreements and engagements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid

as to the residue thereof, and the rents, considerations, and payments reserved, payable and to be paid for, or in respect to, the same, shall be so proportioned as that the part thereof, justly and equitably payable for such residue thereof and no more, shall be paid or recoverable for, in any respect, of the same.

XVII. Any person interested may appeal from any final order of the common council for opening or widening any street, alley, public ground, or highway, to any court of record in Cook county, by notice in writing to the mayor or clerk at any time before the expiration of thirty days after the passage of such final order. In case of appeal, the common council shall make a return within thirty days after notice thereof, and the court shall, at the next term after return filed in the office of the clerk thereof, hear and determine such appeal, and confirm or annul the proceedings; from which judgment no appeal or writ of error shall lie. Upon the trial of the appeal all questions involved in said proceedings, including the amount of damages, shall be open to investigation by affidavit or oral testimony, addressed to the court, and the burden of proof shall in all cases be upon the city, to show that the proceedings are in conformity with this act.

XVIII. The common council may, by ordinance, make any changes they may deem advisable in the proceedings herein prescribed for ascertaining the damages and injury occasioned to any person or real estate by reason of the condemnation of any real estate upon which any buildings may be situate, in whole or in part, and the assessment of such damage and injury upon persons or real estate benefited by the improvement; and in such other respects as experience may suggest.

XIX. In all cases where there is no agreement to the contrary, the owner or landlord, and not the occupant or tenant, shall be deemed the person who ought to bear and pay every assessment made for the expense of any public improvement. Where any such assessment shall be made upon, or paid by, any person, when by agreement or by law the same ought to be borne or paid by any other person, it shall be lawful for one so paying

to sue for, and recover of the person bound to pay the same, the amount so paid with interest. Nothing herein contained shall impair, or in any way affect, any agreement between any landlord and tenant, or other persons, respecting the payment of such assessments.

(Provision for the appointment of guardians for infant heirs contained in sec. 13, Division VII.)

DIVISION VII.

ASSESSMENTS FOR PUBLIC IMPROVEMENTS.

§1. Power to improve streets by planking, etc.; to construct sidewalks, sewers, etc.; tunnels; and improve parks.
2. Expenses to be assessed upon real estate benefiited; not to exceed three per cent
3. Council to fix amount to be assessed; appointment of commissioners.
4. Commissioners to give notice of meeting; to assess the amount on real estate; their roll.
5. Owner of land injured entitled to recompense.
6. Assessment to be signed and delivered to clerk within forty days; clerk to give notice.
§ 7. Objections may be filed; heard by the council; proceedings therein.
8. Vacancies in office of commissioners; how filled.
9. New assessment when first insufficient; excess tobe refunded.
10. Owner to construct sidewalks and drains when ordered; how assessed.
11. Expense of removing nuisances may be assessed; collectible by suit.
12. Clerk may swear commissioners; their compensation; attorney to prepare papers.
13. Guardians, when and by whom to be appointed.

I. The common council shall have power, from time to time, to cause any street, alley, or highway, to be graded, leveled, paved, macadamized, or planked; and keep the same in repair.

2. To cause cross- and side-walks, main drains and sewers, private drains, and aqueducts, to be constructed and laid, relaid, cleansed, and repaired, and regulate the same.

3. To cause or authorize a tunnel, or tunnels, to be constructed under the Chicago river and its branches, at the intersection of any street; and

4. To grade, improve, protect, and ornament any public square now or herafter laid out.

II. The expenses of any improvement, mentioned in the foregoing section (except sidewalks and private drains), shall be assessed upon the real estate in any natural division benefited thereby, with the costs of the proceedings therein, in proportion, as nearly as may be, to the benefits resulting thereto: Provided, such assessment shall not exceed three per cent. per annum on the property assessed.

III. The amount to be assessed for any such improvement (except sidewalks and private drains) shall be determined by the common council; and they shall, by ballot, appoint, by a majority of all the aldermen authorized by law to be elected, three reputable freeholders of the city to make such assessment. The commissioners shall be sworn faithfully and impartially to execute their duty to the best of their ability.

IV. Before entering on their duties, the commissioners shall give six days' notice, in the corporation newspaper, of the time and place of meeting, to all persons interested, and they may, if necessary, adjourn from day to day. The commissioners shall assess the amount directed by the common council to be assessed on the real estate by them deemed benefited by any such improvement, in proportion to the benefit resulting thereto, as nearly as may be, and briefly describe in the assessment roll to be made by them the real estate in respect to which any assessment is made, and the value thereof.

V. If the commissioners shall be of the opinion that any owner of land situate upon any street, alley, or other highway, graded or leveled under this section, will sustain damages over and above the benefits which may accrue to the owner of such land by the improvement, they may assess such an amount as they may deem a reasonable recompense to such owner, upon the real estate benefited in the manner aforesaid; and such sum shall be

added to their assessment roll, and the amount certified to the council, at the time of filing the roll.

VI. When the commissioners shall have completed their assessment, and made a corrected copy thereof, they shall deliver the same to the city clerk, within forty days after their appointment, signed by all the commissioners. The clerk shall thereupon cause a notice to be published in the corporation newspaper for six days, to all persons interested, of the completion of the assessment, and the filing of the roll. Time and place shall be designated therein for hearing objections.

VII. Any person interested may appeal to the common council for the correction of the assessment. Appeals shall be in writing and filed in the clerk's office within ten days after the first publication of said notice. The council may adjourn such hearing from day to day, and shall have power, in case of appeal or otherwise, in their discretion, to revise and correct the assessment, and confirm or annul the same, and direct a new assessment to be made, in the manner hereinbefore directed, by the same commissioners, or by three others, which shall be final and conclusive on all parties interested, if confirmed. When confirmed, the assessment shall be collected, as in other cases, and no appeal or writ of error shall lie in any case from such order and determination. If any assessment be set aside by order of any court, the common council may cause a new one to be made, in like manner, for the same purpose, for the collection of the amount so assessed.

VIII. If any vacancy happen, in the office of commissioners, at any time, by reason of removal, failure or refusal, or inability, from sickness or other cause, to serve, the common council may fill such vacancy.

IX. If the first assessment prove insufficient, another may be made in the same manner; or if too large a sum shall at any time be raised, the excess shall be refunded, ratably, to those by whom it was paid.

X. All owners or occupants in front of or upon whose premises the common council shall order and direct sidewalks or

private drains, communicating with any main drain, to be constructed, repaired, relaid, or cleansed, shall make, repair, relay, or cleanse such sidewalks or private drains at their own cost and charges, in the manner and within the time prescribed by ordinance, or otherwise, and if not done in the manner and within the time prescribed, the council may cause the same to be constructed, repaired, relaid, or cleansed, and assess the expenses thereof, by an order to be entered in their proceedings, upon such lots, respectively, and collect the same by warrant and sale of the premises, as in other cases. A suit may also be maintained against the owner or occupant of such premises, for recovery of such expenses, as for money paid and laid out to his use at his request.

XI. In all cases where expenses may be incurred in the removal of any nuisance, the common council may cause the same to be assessed against the real estate chargeable therewith, in the manner prescribed in the foregoing section. Such expenses shall be likewise collectible of the owner or occupant of such premises, in a suit for money expended to his or their use. In case the same should not be chargeable to any real estate, suit may in like manner be brought for such expenses against the author of such nuisance, when known, or any person whose duty it may be to remove or abate the same.[1]

XII. Commissioners appointed under this act may be sworn into office by the city clerk. They shall be allowed two dollars per day each for actual services, which, together with all other expenses in relation to any assessment made in pursuance of this act, shall be deemed part of the expenses of the improvement and included therein. The city attorney shall prepare such papers and make such examinations as they may request.

XIII. When any known owner residing in said city, or elsewhere, shall be an infant, and any proceedings shall be had under this act, the circuit court of the county of Cook, the judge thereof, the municipal court of said city, or any judge of the

[1] An additional power to assess for similar purposes may be found in the fifty-seventh clause of sec. 4, Division IV.

supreme court, or judge of probate of said county, may, upon the application of the common council, or such infant or his next friend, appoint a guardian for such infant, taking security from such guardian for the faithful execution of such trust, and all notices and summons, required by this act, shall be served on such guardian.

DIVISION VIII.

COLLECTION OF TAXES AND ASSESSMENTS.

§ 1. Assessment rolls, form of and revision; power of assessors may be defined.
2. When rolls to be returned; objections to; assessment may be equalized; not to be increased unless to supply omissions.
3. When corrected to be confirmed; taxes to be laid by ordinance.
4. Lien of assessment; personal property liable for taxes; in case of injunction, lien to continue.
5. Warrant to issue for collection of taxes; form of.
6. Warrants, how signed; what to contain; when to be given to the collector; power of, to sue for taxes; demand.
7. Power to collect taxes; collector to pay over when collected; his duties and liabilities.
§ 8. Premises may be sold for taxes; order of sale to be made; form of; certified copy and the warrant, deemed process.
9. Collector to give notice of sale; form of notice.
10. Mode of conducting sale; certificates of purchase to be given; fees of collector; record of sales.
11. Redemption from sale; when, and by whom made; when deed to be executed to the purchaser; an abstract of tax deeds to be kept.
12. Assignee of certificate entitled to deed.
13. In the absence of bidders city may become a purchaser.
14. Tax deeds; *prima facie* evidence of certain facts; when conclusive.

I. The common council shall have power by ordinance to prescribe the form of assessment rolls, and prescribe the duties and define the powers of assessors. They may also make such rules, and give such directions, in relation to revising, altering, or adding to the rolls, as they may deem proper and expedient.

II. The annual assessment rolls shall be returned by the assessors on or before the first Monday of August, in each year; but the time may be extended by order of the common council. On the return thereof, the common council shall fix a day for hearing objections thereto, and the clerk shall give notice of the time and place of such hearing; and any person feeling aggrieved by the assessment of his property may appear at the time specified, and make his objections. The common council shall have power to supply omissions in said assessment roll, and for the purpose of equalizing the same, to alter, add to, take from, and otherwise correct and revise the same, or to refer the same back to the assessors with instructions to revise and correct the same: Provided, the common council shall not have power to increase the aggregate amount of said roll, except by the value of such property, real or personal, as may have been omitted by the assessors.

III. When the assessment rolls shall have been corrected and revised, the same shall be filed, and an order confirming the same, and directing the warrant to be issued for the collection thereof, shall be entered by the clerk. The common council shall thereupon by an ordinance, or resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied (not exceeding the authorized percentage), particularly specifying the purpose for which the same are levied, and if not for general purposes, the division of the city upon which the same are laid.

IV. All taxes and assessments, general or special, levied or assessed by the common council under this act, shall be a lien upon the real estate upon which the same may be imposed, voted, or assessed, for two years from and after the corrected assessment roll shall have been confirmed, and on personal estate from and after the delivery of the warrant for the collection thereof, until paid, and no sale or transfer shall affect the lien. Any personal property belonging to the debtor may be taken and sold for the payment of taxes on real or personal estate: Provided, that in case the collection of any assessment

shall be delayed by injunction, or other judicial proceedings, the same shall continue a lien (unless set aside) upon such real estate, for the period of two years from and after the final disposition of such injunction, or other judicial proceedings.

V. The clerk shall issue a warrant, or warrants, for the taxes, and rule therein separate columns, in which the taxes levied shall be respectively set down opposite the name of the person or real estate subject thereto; each column shall be headed with the name of the tax therein set down.

VI. All warrants, issued for the collection of general or special taxes and assessments, shall be signed by the mayor and clerk, with the corporate seal thereto attached, and shall contain true and perfect copies of the corrected assessment rolls upon which the same may be respectively issued. They shall be delivered to the collector, or collectors, of the city, for collection within six weeks after the filing of the corrected rolls, unless further time shall be given for this purpose by the common council. If not otherwise paid, the collector shall have power to collect said taxes, with interest and cost, by suit in the corporate name, or by distress and sale of personal property, as aforesaid, after a demand and refusal to pay the same. The assessor's roll shall, in all cases, be evidence on part of the corporation: Provided, a notice published by the collector for ten days in the corporation paper shall be deemed a demand, and a neglect to pay taxes for twenty days thereafter shall be deemed a refusal.

VII. All taxes and assessments, general or special, shall be collected by the collector, or collectors, in the same manner, and with the same power and authority, as are given by law to collectors of county and state taxes. He shall pay the same, as fast as collected, into the city treasury; and his duty in regard to returning warrants, and settling with the city, and his liabilities in case of default, or misconduct, shall be the same as prescribed by law: Provided, the common council shall have power to prescribe the powers, duties, and liabilities of collectors, by ordinance.

VIII. In case of the non-payment of any taxes or assessments, levied or assessed under this act, the premises may be sold for the payment thereof, at any time within two years after the confirmation of the assessment by the common council. Before any such sale, an order shall be made by the common council, which shall be entered at large in the records kept by the clerk, directing the collector to sell, particularly describing the delinquent premises to be sold, and the assessment for which the sale shall be made; a certified copy of which order, under the corporate seal, signed by the mayor, or presiding officer, and clerk, shall be delivered to the collector, which, together with the warrant, shall constitute the process upon which such sale may be made.

IX. The collector shall then advertise such premises, in the corporation paper, for sale, for the period of thirty days from and after the first publication of such notice, describing the same by figures or otherwise, with the name of the owner when known, and the several amounts of the taxes or assessments thereon, and costs. Said notice shall also contain the time and place of sale, and shall be published at least four times. The proceedings may be stopped at any time on the payment of the taxes or assessments and interest, with expense of advertising.

X. All sales shall be conducted in the manner required by law, but the common council shall have power to prescribe the manner of conducting the same. The sale shall be made for the smallest portion of ground (to be taken from the east side of the premises) for which any person will take the same and pay the taxes or assessments thereon, with interest and costs of sale. Duplicate certificates of sale shall be made and subscribed by the collector, one of which shall be delivered to the purchaser, and the other filed in the office of the clerk, which certificate shall contain the name of the purchaser, a description of the premises sold, the amount of the tax or assessment, with the interest and expenses, for which the same was sold, and the time when the right to redeem will expire. The collector shall be entitled to the same fees for selling as are allowed by law for similar

services. The clerk shall keep a record of such sales, which shall be open to public inspection at all reasonable times.

XI. The right of redemption in all cases of sales for taxes or assessments shall exist to the owner, his heirs, creditors, or assigns, to the same extent as is allowed by law in the case of sales of real estate for taxes, on the payment, in specie, of double the amount for which the same was sold, and all taxes accruing subsequent to the sale, with interest. If the real estate of any infant, *feme covert*, or lunatic be sold under this act, the same may be redeemed at any time within one year after such disability be removed. In case of redemption the money may be paid to the purchaser, or for him to the city clerk, who shall make a special deposit thereof with the treasurer, taking his receipt therefor. If not redeemed according to law, the common council shall, upon the return of the certificate, or proof of its loss, direct a deed to be executed to the purchaser, under the corporate seal, signed by the mayor or presiding officer of the council, and countersigned by the clerk, conveying to such purchaser the premises so sold and unredeemed as aforesaid. An abstract of all deeds so made and delivered shall be entered by the clerk in the book wherein tax sales are recorded. A fee of one dollar may be charged by the clerk for every deed so issued.

XII. The assignee of any tax certificate, of any premises sold for taxes or assessments, under authority of said city, shall be entitled to receive a deed of such premises, in his own name, and with the same effect as though he had been the original purchaser.

XIII. If at any sale of real or personal estate, for taxes or assessments, no bid shall be made for any parcel of land, or any goods and chattels, the same shall be struck off to the city; and thereupon the city shall receive, in the corporate name, a certificate of the sale thereof, and shall be vested with the same rights as other purchasers at such sales.

XIV. All deeds made to purchasers of lots sold for taxes or assessments, by order of the council, shall be *prima facie* evidence

in all controversies and suits in relation to the right of the purchaser, his or her heirs or assigns, to the premises thereby conveyed, of the following facts: (1) That the land or lot conveyed was subject to taxation or assessment at the time the same was advertised for sale, and had been listed and assessed in the time and manner required by law. (2) That the taxes or assessments were not paid at any time before the sale. (3) That the land conveyed had not been redeemed from the sale at the date of the deed; and shall be conclusive evidence of the following facts:

1. That the land or lot was advertised for sale in the manner and for the length of time required by law.

2. That the land was sold for taxes or assessments as stated in the deed.

3. That the grantee in the deed was the purchaser.

4. That the sale was conducted in the manner required by law.

And in all controversies and suits involving the title to land claimed and held under and by virtue of such deed the person or persons claiming title, adverse to the title conveyed by such deed, shall be required to prove, in order to defeat the said title, either that the land was not subject to taxation at the date of sale; that the taxes or assessments had been paid; that the land had never been listed and assessed for taxation or assessment; or that the same had been redeemed according to the provisions of this act; and that such redemption was made for the use and benefit of the persons having the right of redemption, under the laws of this state; but no person shall be permitted to question the title acquired by the said deed, without first showing that he, she, or they, or the person under whom he, she, or they claim title, had title to the land at the time of the sale, or that the title was obtained from the United States, or this state, after the sale, and that all taxes due upon the lands have been paid by such persons, or the person under whom he claims title as aforesaid.

DIVISION IX.

FIRE DEPARTMENT.

§1. Power to prescribe fire limits; to prohibit the erection of wooden buildings.
2. Chimneys; construction of, regulated; to appoint fire wardens; their duty; to require families to keep fire-buckets, and have scuttles in the roofs of houses; general powers.
3. Common council to procure fire engines; to create fire companies and appoint firemen; to prescribe their duties; may fine and remove them.
§4. Engineers and firemen to take charge of the engines, etc.; may define their duties.
5. Members of the council and firemen exempt from jury and military duty; certificate of city clerk, when evidence of exemption.
6. Firemen serving ten years forever exempt from jury and military duty; entitled to diplomas; evidence of exemption.

I. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings shall not be erected, or placed, or repaired, without the permission of the common council, and to direct that all and any buildings, within the limits prescribed, shall be made or constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

II. The common council shall also have power:

1. To regulate the construction of chimneys so as to admit chimney sweeps, and to compel the sweeping and cleaning of chimneys.

2. To prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers, and apparatus used in and about any building or manufactory, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous.

3. To prevent the deposit of ashes in unsafe places, and to appoint one or more officers to enter into all buildings and inclosures, to discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in safe condition.

4. To require the inhabitants to provide as many fire-buckets and in such a manner and time as they shall prescribe, and to regulate the use of them in times of fire.

5. To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fire.

6. To regulate and prevent the use of fireworks and firearms.

7. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs, and stairs or ladders leading to the same.

8. To authorize the mayor, aldermen, fire wardens, or other officers of said city, to keep away from the vicinity of any fire all idle and suspicious persons, and to compel all officers of said city and other persons to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat.

9. And, generally, to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient.

III. The common council shall procure fire engines and other apparatus used for the extinguishment of fires, and have the charge and control of the same, and provide fit and secure engine houses, and other places for keeping and preserving the same; and shall have the power:

1. To organize fire, hook, hose, bag, ladder, and axe companies.

2. To appoint, during their pleasure, a competent number of able and reputable inhabitants of said city, firemen, to take the care and management of the engines, and other apparatus and implements used and provided for the extinguishment of fires.

3. To prescribe the duties of firemen, and to make rules and regulations for their government, and to impose reasonable fines and forfeitures upon them for a violation of the same; and for incapacity, neglect of duty, or misconduct, to remove them.

IV. The chief and assistant engineers of the fire department, with the other firemen, shall take the care and management of the engines, and other apparatus and implements used and provided for the extinguishment of fires; and their duties and powers shall be defined by the common council.

V. The members of the common council and firemen shall, during their term of service as such, be exempt from serving on juries in all courts of this state, and in the militia, and shall likewise be exempt from working out any road or street tax. The name of each fireman shall be registered with the clerk of the city, and the evidence to entitle him to the exemption provided in this section shall be the certificate of the clerk, made within the year in which the exemption is claimed.

VI. Every fireman who shall have faithfully served as such in said city for the term of ten years shall be thereafter exempt from serving on juries in all courts in this state, or in the militia, except in case of war, invasion, or insurrection; and the evidence to entitle such person to such exemption shall be a diploma, under the corporate seal, signed by the mayor and clerk.

DIVISION X.

BOARD OF HEALTH.

§1. Board of health, of whom to consist; city clerk to keep its proceedings.
2. Duties of health officers; to visit vessels suspected of having disease on board; to report to the board of health.
3. All persons, not resident, infected, may be removed to pest house; infected goods may be destroyed.
§4. Vessels infected may be removed to quarantine; punishment for refusal to comply with orders.
5. Health officers, when may be empowered to exercise certain powers.
6. Council may prescribe duties and powers of board of health.
7. Practicing physicians to report infected patients; penalties for neglect.

I. The board of health shall consist of three or more commissioners, to be appointed annually by the common council;

and the mayor or presiding officer of the common council shall be president of said board; and the city clerk shall be clerk thereof, and keep minutes of its proceedings.

II. It shall be the duty of health officers to visit every sick person who may be reported to the board of health, as hereinafter provided, and to report with all convenient speed their opinion of the sickness of such person to the clerk of the said board of health; and to visit and inspect, at the request of the president of said board, all boats or vessels coming, or lying, and being within the harbor of the city, which are suspected of having on board any pestilential or infectious disease, and all stores and buildings which are suspected to contain unsound provisions or damaged hides, or other articles, and to make report of the state of the same with all convenient speed to the clerk of the board of health.

III. All persons in said city, not resident thereof, who shall be infected with any pestilential or infectious disease, and all things which in the opinion of said board shall be infected by, or tainted with, pestilential matter, and ought to be removed, so as not to endanger the health of the city, shall, by order of said board, be removed to some proper place, not exceeding fifteen miles beyond the city bounds, to be provided by the board at the expense of the person who may be removed, if able; and the board may order any furniture or wearing apparel to be destroyed whenever they may judge it to be necessary for the health of the city, by making just compensation.

IV. In case any boat or vessel shall come or be within the harbor or jurisdiction of the city, and the said board of health shall believe that such boat or vessel is dangerous to the inhabitants of said city, in consequence of her bringing and spreading any pestilential or infectious disease among said inhabitants, or have just cause to suspect, or believe, that if said boat or vessel is suffered to remain within the harbor or jurisdiction aforesaid, it will be the cause of spreading among the said inhabitants any pestilential or infectious disease, it shall and may be lawful for the said board, by an order in writing, signed by the president

for the time being, to order such boat or vessel to be forthwith removed to any distance not exceeding fifteen miles beyond the bounds of said city, after the delivery of such order to the owner or consignee of said boat or vessel, to quarantine, under such regulations and for such time as the council or the board of health may prescribe; and if the master, owner, or consignee, to whom such order shall be delivered, shall neglect or refuse to comply therewith, or if, after such removal, such master, owner, or consignee shall neglect or refuse to obey the regulations which may be prescribed, the said president may enforce such removal or other regulations in such manner as the council may by ordinance direct; and such master, owner, or consignee shall be considered guilty of a misdemeanor, and on conviction shall be fined a sum not exceeding two hundred and fifty dollars, and imprisoned not exceeding six months in the jail of Cook county, or in the city bridewell or house of correction, by any court having cognizance thereof. The said fine shall be paid into the treasury.

V. The health officers may be authorized by the common council, when the public interests require, to exercise, for the time being, such of the powers and perform such of the duties of marshal, street commissioner, and constable, as the common council may, in their discretion, direct, and shall be authorized to enter all houses and other places, private or public, and boats or other vessels, at all times, in the discharge of any duty under this act.

VI. The common council shall have power to prescribe the powers and duties of the board of health, and to punish by fine or imprisonment, or both, any refusal or neglect to observe the orders and regulations of the board.

VII. Every person practicing physic in the city who shall have a patient laboring under any malignant or yellow fever, or other infectious or pestilential disease, shall forthwith make report thereof in writing to the clerk of said board; and for neglecting to do so shall be considered guilty of misdemeanor, and be liable to a fine of fifty dollars, to be sued for and

recovered in any action of debt, in any court having cognizance thereof, with costs, for the use of said city.

(Further provisions, in reference to health, may be found in clauses 29, 50, 60, and 61 of sec. 4, Division IV.)

DIVISION XI.

SCHOOLS AND SCHOOL FUNDS.

§1. School fund of town 39, range 14, vested in the city; power of, to manage; to lend school funds; to lease or convey real estate belonging to.
2. Principal of, not to be impaired; interest on, to be paid to teachers; benefits of fund secured to that part of the town out of city limits.
3. Powers of common council; in reference to the management of schools; to appoint inspectors and trustees.
4. School agent to have management of school funds.
5. Agent to give bond; compensation of, to be paid by school fund; liabilities for misconduct.
6. School fund to be kept loaned; securities, what and how taken; rate of interest; council may reduce the rate of.
7. Securities to be taken in the name of the city of Chicago
§ 8. Borrower to pay expenses attending loan.
9. Debts due school fund from deceased persons to be first paid.
10. Interest at 15 per cent. to be charged from default in payment; interest may be recovered when principal not due.
11. Judgments to bear 12 per cent. interest until paid; real estate sold on, may be bought in by the city; redemption.
12. No judicial costs to be charged to school fund.
13. If any debt become insecure, further security may be required; if not given, suit may be brought.
14. Annual report concerning schools to be made what to contain.
15. School tax to be deposited with the treasurer; to be kept a separate fund.

I. The school lands and school fund of township thirty-nine north, range fourteen east of the third principal meridian, shall be, and the same are hereby, vested in the city of Chicago. The

common council shall, at all times, have power to do all acts and things in relation to said school lands and school fund, which they may think proper to their safe preservation and efficient management; and sell or lease said lands, and all canal or other lots or lands, or other property, which may have been, or may hereafter be, donated to the school fund, on such terms, and at such times, as the common council shall deem most advantageous; and, on such sale or sales, lease or leasings, to make, execute, and deliver all proper conveyances, which said conveyances shall be signed by the mayor, and countersigned by the clerk, and sealed with the corporate seal: Provided, that the proceeds arising from such sales shall be added to, and constitute a part of, the school fund.

II. Nothing shall be done to impair the principal of said fund, or to appropriate the interest accruing from the same to any other purpose than the payment of teachers in the public schools in said township; and any school established in said township, without the limits of said city, shall be entitled to the same benefits and advantages from said fund as it would be without the passage of this act, except as to donations which may have been, or may hereafter be, made to the same.

III. The common council shall have power:

1. To erect, hire, or purchase buildings suitable for schoolhouses, and keep the same in repair.

2. To buy or lease sites for schoolhouses, with the necessary grounds.

3. To furnish schools with necessary fixtures, furniture, and apparatus.

4. To establish, support, and maintain schools, and supply the inadequacy of the school fund for the payment of city teachers, from school taxes.

5. To fix the amount of compensation to be allowed to teachers.

6. To prescribe the schoolbooks to be used, and the studies to be taught, in the different schools.

7. To lay off and divide the city into school districts, and,

from time to time, alter the same, or create new ones, as circumstances may require.

8. To appoint seven inspectors to be denominated Board of School Inspectors; also, three trustees of schools in each district.

9. To establish and prescribe the powers and duties of the board of school inspectors and school trustees.

10. And generally have and possess all the rights, powers, and authority necessary for the proper management of schools, and the school lands, and funds belonging to the township, with power to enact such ordinances as may be necessary to carry their powers and duties into effect.

IV. The school agent shall have the custody and management of the money, securities, and property belonging to the school fund, subject to the direction of the common council.

V. The school agent, before entering upon his duties, shall give bond in such amount, and with such conditions and sureties, as the common council may require. His compensation shall be paid out of the school fund; and he shall be subject for misconduct in office to the same penalties and imprisonment as school commissioners are, or may be, subject to by law.

VI. The school fund shall be kept loaned at interest, at the rate of twelve per cent. per annum, payable semi-annually in advance. No loan shall be made, hereafter, for a longer period than ten years, and all loans exceeding one hundred dollars shall be secured by unincumbered real estate of double the value of the sum loaned, exclusive of the value of perishable improvements thereon. For sums of one hundred dollars and less, two good sureties, besides the principal, shall be required: Provided, the common council shall have power to reduce the rate of interest by a vote of two-thirds of all the aldermen elected.

VII. All notes and securities shall be taken to the city of Chicago, for the use of the inhabitants of said township, for school purposes, and in that name all suits, actions, and every description of legal proceedings may be had.

VIII. All expenses of preparing or recording securities shall be paid exclusively by the borrower.

IX. In the payment of debts of deceased persons, those due the school fund shall be paid in preference to all others, except expenses attending the last illness and funeral of the deceased, not including the physician's bill.

X. If default be made in the payment of interest, or of the principal, when due, interest at the rate of fifteen per cent. upon the same shall be charged from the default, and may be recovered by suit or otherwise. Suits may be brought for the recovery of interest only when the principal is not due.

XI. All judgments recovered for interest, or principal, or both, shall respectively bear interest at twelve per cent. per annum, from the rendition of judgment until paid; and in case of the sale of real estate thereon, the city of Chicago may become the purchaser thereof for the use of the school fund, and shall be entitled to the same rights given by law to other purchasers. On redemption, twelve per cent. interest shall be paid from the time of sale.

XII. No costs made in the course of any judicial proceedings in which the city of Chicago, for the use of the school fund, may be a party, shall be chargeable to the school fund.

XIII. If the security on any loan should, at any time before the same is due, become, in the united judgment of the school agent and common council, insecure, the agent shall notify the person indebted thereof; and unless further satisfactory security shall be forthwith given by the debtor, judgment may be recovered thereon, as in other cases, although no condition to that effect be inserted in the note or other security.

XIV. The common council shall annually publish, on the second Tuesday in February, in the corporation newspaper of the city, the number of pupils instructed in the year preceding, the several branches of education pursued by them, and the receipts and expenditures of each school, specifying the sources of such receipts and the objects of such expenditures.

XV. The school tax shall be paid into the city treasury and be kept a separate fund for the building of schoolhouses, and

keeping the same in repair, and supporting and maintaining schools.

[*Cf.* Act of February 23, 1847, in relation to schools in township 39 without the corporate limits of Chicago.]

DIVISION XII.

MISCELLANEOUS PROVISIONS.

§ 1. Annual report to be published; what report must contain.
2. Penalties not to be remitted unless by two-thirds vote of the council; jurisdiction of courts to abate nuisances preserved.
3. A vote of the common council; when shall not be reconsidered.
4. Cemetery lots exempt from levy and attachment.
5. Ordinances imposing penalties to be published one week before taking effect.
6. All suits in behalf of the city to be brought in corporate name.
7. The first process shall be a summons; when warrant may issue.
8. Justices of the peace designated by the council shall have jurisdiction in all cases.
Execution to issue on rendition of judgment; when body of defendant may be taken; when may be imprisoned.
§10. Persons injuring bridges or other public property, how may be punished; liable civilly for damages.
11. No person rendered incompetent by reason of being an inhabitant of the city.
12. Ordinances to continue in force.
13. All actions and rights preserved
14. Rights of property vested in the corporation; officers to continue until superseded.
15. Ordinances when published by authority shall be evidence without proof.
16. This act a public act; courts to take judicial notice of it.
17. No right or act invalidated or divested by reason of this act.
18. Powers of conservators of the peace.
19. City not liable for board of prisoners in certain cases.
20. All powers heretofore granted to the city to continue, unless repealed or modified by this or former acts.

I. The common council shall, at least ten days before the annual election in each year, cause to be published in two newspapers in said city a full and correct statement of the receipts and expenditures from the date of the last annual report, together with the sources from whence the former are derived, and their mode of disbursement; and also a distinct statement of the whole amount assessed, received, and expended in the respective wards and divisions for making and repairing roads, highways, and bridges for the same period, together with such other information as may be necessary to a full understanding of the financial concerns of the city.

II. Neither the mayor nor common council shall remit any fine or penalty imposed upon any person for the violation of the laws or ordinances of said city, or release from imprisonment, unless two-thirds of all the aldermen authorized to be elected shall vote for such release or remission; nor shall anything in this act be so construed as to oust any court of jurisdiction to abate and remove nuisances in the streets or any other parts of said city, or within its jurisdiction, by indictment or otherwise.

III. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

IV. The cemetery lots which have or may hereafter be laid out and sold by said city for private places of burial shall, with the appurtenances, forever be exempt from execution and attachment.

V. Every ordinance, regulation, or by-law imposing any penalty, fine, imprisonment, or forfeiture for a violation of its provisions shall, after the passage thereof, be published one week in the corporation newspaper, and proof of such publication by the affidavit of the printer or publisher of said newspaper, taken before any officer authorized to administer oaths, and filed with the city clerk, or any other competent proof of such publication, shall be conclusive evidence of the legal publication and promulgation of such ordinance or by-law in all courts and places.

VI. All actions brought to recover any penalty or forfeiture incurred under this act, or the ordinances, by-laws, or police regulations made in pursuance of it, shall be brought in the corporate name. It shall be lawful to declare, generally, in debt for such penalty or forfeiture, stating the clause of this act or the by-laws or ordinances under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

VII. In all prosecutions for any violation of any ordinance, by-law, police, or other regulation, the first process shall be a summons, unless oath or affirmation be made for a warrant, as in other cases.

VIII. The common council shall have power to designate two or more justices of the peace in said city, who shall have jurisdiction in any actions for the recovery of any fine or penalty under this act, or any ordinance, by-law, or police regulation of the city council, anything in the laws of this state to the contrary notwithstanding ; such justices shall have power to fine or imprison, or both, in their discretion, where discretion may be vested in them by the ordinance or regulation, or by this act. The mayor may hold a police court.

IX. Execution may be issued immediately on the rendition of judgment. If the defendant in any such action have no goods or chattels, lands or tenements, whereof the judgment can be collected, the execution shall require the defendant to be imprisoned in close custody in the jail of Cook county, or bridewell, or house of correction, for a term not exceeding six months, in the discretion of the magistrate or court rendering judgment ; and all persons who may be committed under this section shall be confined one day for each fifty cents of such judgment and costs. All expenses incurred in prosecuting for the recovery of any penalty or forfeiture, when collected, shall be paid to the treasurer for the use of the city.

X. And any person or persons who shall injure or destroy any bridge, the construction of which may have been heretofore or may be hereafter authorized or permitted to be built by the

common council, or any other public buildings or property belonging to said city, or shall cause or procure the same to be injured or destroyed, shall be subject to a penalty not exceeding five hundred dollars for each offense, to be recovered by the city in an action of debt, and may be imprisoned for a term not exceeding six months, in the discretion of the magistrate before whom such conviction may be had, and such person or persons shall also be liable in a civil action at the suit of the city for the damages occasioned by such injury or destruction.

XI. No person shall be an incompetent judge, justice, witness, or juror, by reason of his being an inhabitant or freeholder in the city of Chicago, in any action or proceeding in which the said city shall be a party in interest.

XII. All ordinances, regulations, and resolutions now in force in the city of Chicago, and not inconsistent with this act, shall remain in force under this act until altered, modified, or repealed by the common council, after this act shall take effect.

XIII. All actions, rights, fines, penalties, and forfeitures, in suit or otherwise, which have accrued under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

XIV. All property, real, personal, or mixed, belonging to the city of Chicago, is hereby vested in the corporation created by this act; and the officers of said corporation, now in office, shall respectively continue in the same until superseded in conformity to the provisions hereof; but shall be governed by this act, which shall take effect from and after its passage.

XV. All ordinances of the city, when printed and published by authority of the common council, shall be received in all courts and places without further proof.

XVI. This act shall be deemed a public act, and may be read in evidence without proof; and judicial notice shall be taken thereof in all courts and places.

XVII. This act shall not invalidate any legal act done by the common council of the city of Chicago, or by its officers; nor divest their successors under this act of any rights of property

or otherwise, or liability which may have accrued to, or been created by, said corporation prior to the passage of this act.

XVIII. All officers of the city created conservators of the peace by this act shall have power to arrest or cause to be arrested, with or without process, all persons who shall break or threaten to break the peace, commit for examination, and, if necessary, detain such persons in custody over night in the watch-house, or other safe place, and shall have and exercise such other powers as conservators of the peace as the common council may prescribe.

XIX. The city of Chicago shall not be liable in any case for the board or jail fees of any person who may be committed by any officer of the city, or by any magistrate, to the jail of Cook county, for any offense punishable under the laws of this state.

XX. Nothing in this act contained shall be so construed as to deprive the common council of said city of any power or authority conferred upon the same by the act incorporating said city, and the various acts amendatory thereto. But the common council shall possess and enjoy all the powers and authority heretofore conferred upon the same, except so far as such powers and authority have been expressly modified or repealed by this act, or the acts heretofore mentioned.

This act shall be deemed a public act, and take effect from and after its passage.

(Approved February 14, 1851.)

B.

Laws Affecting the Charter Powers of the City Passed in the Year 1851 and Supplementing the Consolidating Act of the Same Year.

February 15, 1851: *An Act to authorize the circuit court of Cook county to appoint port wardens and prescribe their duties.*

This act provides that the circuit court of Cook county shall appoint three competent, discreet persons, residing in the city of Chicago, to be port wardens in said county, who shall hold their respective offices for the term of four years, and until others

shall be appointed to act. It prescribes the duties of these port wardens in some detail, and the compensation to which they shall be entitled, though the judge of the circuit court is authorized, on application of the board of trade of the city of Chicago, to reduce and fix the compensation allowed by this act to the said port wardens.

It is of interest to note that the appointment of these port wardens was intrusted neither to the people nor to the council, but vested in the judges.

FEBRUARY 15, 1851: *An Act to incorporate the Chicago City Hydraulic Company.*

This act names three persons to constitute the board of water commissioners for the city of Chicago.

The commissioners, whose successors were to be chosen at the annual election, were authorized to borrow money to examine and consider all matters relative to supplying the city of Chicago with a sufficient quantity of pure and wholesome water, to be taken from Lake Michigan, for the use of the inhabitants. They were authorized to purchase the property of the Chicago Hydraulic Company, and to succeed to all its powers, rights, and privileges. In case they cannot agree as to the price to be paid, the said company may establish by satisfactory proof the actual cost of their said property before the judge of the circuit court of the county, and no greater sum shall be paid for the same than said judge shall decide the actual cost to have been.

The commissioners are authorized to proceed to the establishment of a system of water-works, and perform such duties as are indicated in the act. This act practically vested the control of the water-works from this time on in the city.

FEBRUARY 17, 1851: *An Act concerning fines and forfeitures.*

This act provides that all fines and forfeitures collected for penalties incurred within the corporate limits of the city of Chicago shall be paid into the treasury of the said city by the officers collecting the same.

FEBRUARY 17, 1851: *An Act to drain the wet lands about Chicago.*

This act appointed certain persons, named in the act, to be commissioners to lay out and superintend the construction of ditches, embankments, or roads necessary for the drainage of wet lands in townships 28, 39, and 40, in ranges 12, 13, and 14 east of the third principal meridian, in the county of Cook. The commissioners were authorized to construct such ditches, roads, and embankments as might be necessary for the drainage of these wet lands. The commissioners were authorized to assess the costs upon the lands benefited thereby. Vacancies in the board of commissioners are to be filled by the circuit court of Cook county. The said commissioners were authorized to erect such bridges as might be necessary over such ditches.

It is noticeable that in this case the legislature named the commissioners and vested in the courts (not in the city council of Chicago) the power to fill vacancies.

FEBRUARY 17, 1851: *An Act to provide for township organization.*

This act, which provides that the question of township organization may be submitted to the voters of the county at any general election, provides in Article 25 that the several wards in the city of Chicago shall be entitled to elect one supervisor in each ward in addition to the township supervisors.

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